

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

FEDERAL HOUSING FINANCE
AGENCY,

Plaintiff,

v.

No. 1:16-cv-21221

DELOITTE & TOUCHE, LLP,

Defendant.

**THE FEDERAL HOUSING FINANCE AGENCY'S RESPONSE TO SHAREHOLDERS'
MOTION FOR AN ORDER DIRECTING THE CLERK TO ENTER JUDGMENT**

The Court should deny the former plaintiff shareholders' motion for an order directing the clerk to enter judgment (Doc. # 62).

On January 18, 2017, this Court granted FHFA's motion to substitute itself in place of the shareholder plaintiffs, and denied the shareholders' motion to remand. Doc. # 50. Then, on February 1, 2017, FHFA moved for voluntary dismissal with prejudice pursuant to Rules 23.1(c) and 41(a)(2) of the Federal Rules of Civil Procedure. Doc. # 52. The Court granted that motion on February 10, 2017, confirming that "no shareholder had the right to object to a dismissal or settlement by the FHFA," and stating "whether under Rule 23.1(c) or Rule 41(a)(1)(i), the Court finds that the FHFA has stated adequate grounds for voluntary dismissal." *Id.* The Court concluded the Dismissal Order by directing the Clerk to "close this case," *id.*, and the docket now indicates the case is "CLOSED."

The former plaintiff shareholders then moved to alter or amend the judgment on February 15, 2017 (Doc. # 57), which the Court denied on April 27, 2017 (Doc. # 60). On May 30, 2017,

the shareholders filed their motion for an order directing the clerk to enter judgment under Rule 58 of the Federal Rules of Civil Procedure. Doc. # 62.

When a court grants a Rule 41 motion to dismiss, Rule 58(a) requires no separate judgment because the court is not adjudging any matter in favor of any party. No separate entry or order is required to effectuate the dismissal under these circumstances. *See, e.g., Stiller v. Costco Wholesale Corp.*, No. 3:09-CV-2473-GPC-BGS, 2015 WL 11201174, at *1 (S.D. Cal. Feb. 10, 2015); *Advance Capital, Inc. v. M/V ANGIE*, Official No. 249544, 273 F.R.D. 660, 661 (W.D. Wash. 2011); *Dillahay v. City of E. Point*, No. 1:04-CV-0063-WSD, 2006 WL 2661057, at *2 (N.D. Ga. Sept. 15, 2006). Moreover, where—as here—the court intends that its dismissal order will end the case and the parties treat it as such, Rule 58 does not require entry of a separate document. *See Escamilla v. Santos*, 591 F.2d 1086, 1087-88 (5th Cir. 1979) (citing *Bankers Trust Co. v. Mallis*, 435 U.S. 381, 387 (1978)).¹

¹ In *Bonner v City of Prichard*, 661 F.3d 1206, 1209 (11th Cir. 1981) (en banc), the Eleventh Circuit adopted as binding all decisions of the former Fifth Circuit handed down prior to October 1, 1981.

Dated: June 13, 2017

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Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that, on June 13, 2017, a true and correct copy of the foregoing was filed electronically using the Court's CM/ECF system, causing a true and correct copy to be served on all counsel of record. I also served the following counsel of record via e-mail:

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