

HEARING DATE: July 28, 2026 at 10 a.m.

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

STATE OF RHODE ISLAND,)
)
Plaintiff,)
)
v.) C.A. No. PC-2024-04526
)
AECOM TECHNICAL SERVICES, INC.,)
AETNA BRIDGE COMPANY,)
ARIES SUPPORT SERVICES INC.,)
BARLETTA HEAVY DIVISION, INC.)
BARLETTA/AETNA I-195 WASHINGTON)
BRIDGE NORTH PHASE 2 JV,)
COLLINS ENGINEERS, INC.,)
COMMONWEALTH ENGINEERS &)
CONSULTANTS, INC.,)
JACOBS ENGINEERING GROUP, INC.)
MICHAEL BAKER INTERNATIONAL, INC.,)
PRIME AE GROUP, INC.,)
STEERE ENGINEERING, INC.,)
TRANSYSSTMS CORPORATION, and)
VANASSE HANGEN BRUSTLIN, INC.,)
)
Defendants.)

**PLAINTIFF’S MOTION TO DISMISS DEFENDANT
COMMONWEALTH ENGINEERS & CONSULTANTS, INC.**

Now comes the Plaintiff, the State of Rhode Island (the “State”), by and through its counsel, and pursuant to Rule 41(a)(2) of the Superior Court Rules of Civil Procedure, hereby moves for the entry of an Order dismissing the State’s claims against Defendant Commonwealth Engineers & Consultants, Inc. (“Commonwealth”) without prejudice and without costs or fees. For the reasons set forth below, the Court should grant this motion (the “Motion”).

In its Amended Complaint, the State has asserted a variety of claims against thirteen defendants (together, the “Defendants”). On May 13, 2026, the State, through its counsel, notified the Defendants, through their counsel, of its intent to voluntarily dismiss its claims against

Commonwealth, without prejudice and without costs or fees. Over the past month, and following the monthly Court conference held on June 9, 2026, the State has secured the assent of twelve of the Defendants—including Commonwealth—to sign a proposed stipulation of dismissal accomplishing just that. One defendant—Michael Baker International, Inc. (“MBI”)—has, however, declined to assent.

At this juncture, it is not entirely clear why MBI opposes the proposed stipulation. In any event, absent MBI’s assent, Rule 41(a)(2) “allows plaintiffs to dismiss an action by order of the court, without prejudice unless otherwise specified.” *See Archetto v. Smith*, 179 A.3d 144, 144 n.1 (R.I. 2018). As Rule 41(a)(2) provides, in relevant part, “[e]xcept as provided in paragraph (1) of this subdivision of this rule, an action shall not be dismissed at the plaintiff’s instance save upon order of the court and upon such terms and conditions as the court deems proper.” Super. R. Civ. P. 41(a)(2); *see also id.* (providing, further, that “[u]nless otherwise specified in the order, a dismissal under this paragraph is without prejudice”). Although there is a dearth of reported Rhode Island case law addressing the contours of Rule 41(a)(2), this Court may look to federal case law for guidance where the federal rule is substantially similar to our own.¹

As the United States Court of Appeals for the First Circuit has explained, the decision to grant a Rule 41(a)(2) motion is generally left to a district court’s—or, here, this Court’s—sound

¹ As former Presiding Justice Gibney once explained,

Rhode Island’s Rule 41(a)(2) is identical to Federal Rule 41(a)(2). . . . The Rhode Island Supreme Court has stated that “where the federal rule and our state rule of procedure are substantially similar, we will look to the federal courts for guidance or interpretation of our own rule.”

Belac v. 3M Co., No. PC-16-0544, 2017 WL 1504687, at *2 (R.I. Super. Apr. 20, 2017) (Gibney, P.J.) (quoting *Crowe Countryside Realty Assocs. Co. v. Novare Eng’rs, Inc.*, 891 A.2d 838, 840 (R.I. 2006)) (internal citation omitted).

discretion. *See Doe v. Urohealth Sys., Inc.*, 216 F.3d 157, 160 (1st Cir. 2000). And in exercising that discretion, the guidepost is whether the dismissal will prejudice any other parties. *See Cason v. Puerto Rico Elec. Power Auth.*, 770 F.3d 971, 976 (1st Cir. 2014) (explaining that Rule 41(a)(2) of the Federal Rules of Civil Procedure “allows a plaintiff to voluntarily dismiss his own case as long as ‘no other party will be prejudiced’” (quoting *P.R. Mar. Shipping Auth. v. Leith*, 668 F.2d 46, 50 (1st Cir. 1981)); *see also Belac*, 2017 WL 1504687, at *3 (“By requiring the Court’s approval, Rule 41(a)(2) allows a trial judge to first evaluate whether dismissal will cause prejudice to any party; such a review ensures that no prejudice will result from a voluntary dismissal.”). Still, “a district court should grant a motion for voluntary dismissal unless a defendant can show that it would suffer some plain legal prejudice as a result thereof, as opposed to facing the mere prospect of a second lawsuit.” *Cason*, 770 F.3d at 976 (citing *Doe*, 216 F.3d at 161); *see also Nestor, Inc. v. HNC Software, Inc.*, 2001 WL 34134292, at *1 (D.R.I. Jan. 16, 2001) (“Although the decision to grant a motion for voluntary dismissal is left to the discretion of the district court, ‘dismissal should be allowed unless clear legal prejudice to the objecting party is shown.’”) (quoting *M.A. Gammino Constr. Co. v. Great Am. Ins. Co.*, 52 F.R.D. 323, 325 (D.R.I. 1971)).

Here, the proposed dismissal of the State’s claims against Commonwealth poses no prejudice to MBI (or any other party). First, with the exception of MBI, every other defendant has agreed to the State’s proposed stipulation of dismissal. Second, MBI has not asserted any cross claims against Commonwealth, and even if MBI had done so, the proposed stipulation here will have no impact on MBI because the State is seeking to dismiss only its claims against Commonwealth. The touchstone of Rule 41(a)(2) has, therefore, been satisfied, and the Court should grant this Motion.

For those reasons, the State respectfully requests that the Court grant this Motion and enter an Order dismissing the State's claims against Commonwealth without prejudice and without costs or fees.

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By its Attorneys,

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CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of June, 2026, I electronically filed and served this document through the electronic filing system on counsel of record. The document is available for viewing and/or downloading from the Rhode Island Judiciary's electronic filing system.

/s/ Edward D. Pare III