

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
MISSOURI, EASTERN DIVISION

**Kenneth S. Langendorf v. American Family Mutual Insurance
Company, S.I.**

Langendorf · No. 4:25-cv-1732-MTS · Decided December 30, 2025

SUMMARY

The court held that Plaintiff’s unilateral Notice of Voluntary Dismissal was ineffective under Federal Rule of Civil Procedure 41(a)(1)(A) because Defendant had already filed an answer. The court ordered the Clerk to strike the notice and explained that Plaintiff could instead file a stipulation of dismissal or seek a court-ordered dismissal.

CASE DETAILS

COURT	United States District Court for the Eastern District of Missouri, Eastern Division
JURISDICTION	United States District Court for the Eastern District of Missouri, Eastern Division
DECIDED	December 30, 2025
DOCKET	4:25-cv-1732-MTS
DISPOSITION	other
PROCEDURAL POSTURE	The Court reviewed Plaintiff's Notice of Voluntary Dismissal, which purported to unilaterally dismiss the action without prejudice after Defendant had filed an answer.
STANDARD OF REVIEW	The Court reviewed the effectiveness of the purported voluntary dismissal under Federal Rule of Civil Procedure 41.
PRECEDENTIAL VALUE	unknown

TOPICS

- civil procedure
- pleadings

PRACTICE AREAS

- civil procedure
- insurance

QUESTIONS PRESENTED

1. Whether a plaintiff may unilaterally dismiss an action without prejudice by notice under Federal Rule of Civil Procedure 41(a)(1)(A) after the defendant has filed an answer.
2. What procedural action the Court should take regarding the ineffective notice of voluntary dismissal.

HOLDINGS

1. A plaintiff cannot unilaterally dismiss an action by notice under Federal Rule of Civil Procedure 41(a)(1)(A) after the defendant has filed an answer; the action remains pending unless the parties stipulate to dismissal or the Court orders dismissal.
2. The Clerk must strike Plaintiff's ineffective Notice of Voluntary Dismissal from the record, and the case remains live.

KEY QUOTATIONS

“A unilateral dismissal or amendment cannot be accomplished . . . after an answer has been filed.” (at 1)

“Accordingly, IT IS HEREBY ORDERED that the Clerk of Court shall STRIKE Plaintiff's Notice of Voluntary Dismissal, Doc. [16], from the record.” (at 2)

FACTUAL BACKGROUND

Plaintiff filed a Notice of Voluntary Dismissal seeking to dismiss the action without prejudice. Defendant had previously filed an answer in the case. Because an answer had been served, Plaintiff's unilateral notice did not satisfy the requirements for dismissal without a court order.

PROCEDURAL HISTORY

Plaintiff filed a notice purporting to voluntarily dismiss the action without prejudice. Defendant had already filed an answer. The Court determined that the notice was ineffective under Federal Rule of Civil Procedure 41(a)(1)(A), ordered the Clerk to strike it from the record, and stated that Plaintiff could pursue dismissal by stipulation or court order.

DISPOSITION

other

CASES CITED

- Exxon Corp. v. Maryland Casualty Co., 599 F.2d 659, 661 (5th Cir. 1979)
- Wilson v. Crouse-Hinds Co., 556 F.2d 870, 873 (8th Cir. 1977)
- Welsh v. Correct Care, L.L.C., 915 F.3d 341, 344 (8th Cir. 2019)
- Armstrong v. Frostie Co., 453 F.2d 914, 916 (4th Cir. 1971)
- Perkins v. Frye, 151 F.4th 968, 971 (8th Cir. 2025)

OPINION

Langendorf

PER CURIAM.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF MISSOURI

EASTERN DIVISION

KENNETH S. LANGENDORF,)

) Plaintiff,)) vs.) Case No. 4:25-cv-1732-MTS)

AMERICAN FAMILY MUTUAL)

INSURANCE COMPANY, S.I.,)

) Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court on review of Plaintiff's "Notice of Voluntary Dismissal." Doc. [16]. It purports to unilaterally dismiss this action without prejudice. See *id.* It does not do so. Pursuant to Rule 41(a)(1)(A), a plaintiff can dismiss an action without a court order via "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment" or by "a stipulation of dismissal signed by all parties who have appeared." Fed. R. Civ. P. 41(a)(1)(A). See also *Exxon Corp. v. Md. Cas. Co.*, 599 F.2d 659, 661 (5th Cir. 1979) (explaining Rule 41(a)(1)'s limitation entitles a defendant, once it has "actively engaged in the defense of a suit" to have the case adjudicated and prevents dismissal "without either his consent, permission of the court, or a dismissal with prejudice that assures him against the renewal of hostilities"). Here, Defendant has filed an Answer in this action. See Doc. [8]. Thus, Plaintiff cannot file a notice of dismissal, and this action remains live. See *Wilson v. Crouse- Hinds Co.*, 556 F.2d 870, 873 (8th Cir. 1977) ("A unilateral dismissal or amendment cannot be accomplished . . . after an answer has been filed."); *Welsh v. Correct Care, L.L.C.*, 915 F.3d 341, 344 (Sth Cir. 2019) (explaining that the filing of an amended complaint does not revive the plaintiff's absolute right to dismissal under Rule 41(a)(1)(A) (citing *Armstrong v. Frostie Co.*, 453 F.2d 914, 916 (4th Cir. 1971))). To avoid confusion, the Court will instruct the Clerk of Court to strike Plaintiff's ineffective Notice of Voluntary Dismissal. Plaintiff may file a stipulation of dismissal, if appropriate, see Fed. R. Civ. P. 41(a)(1)(A)(Gii), or Plaintiff may seek an order of dismissal, see *id.* at 41(a)(2); *Perkins y. Frye*, 151 F.4th 968, 971 (8th Cir. 2025) (explaining Rule 41(a)(2) prevents voluntary dismissals that unfairly affect the other side). See also Doc. [13] at 2 (instructing the parties to "comply with the Federal Rules of Civil Procedure"). In the meantime, this case remains live. Accordingly, IT IS HEREBY ORDERED that the Clerk of Court shall STRIKE Plaintiff's Notice of Voluntary Dismissal, Doc. [16], from the record. Dated this 30th day of December 2025.) MI Pe

UNITED STATES DISTRICT JUDGE

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