

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

OPINION

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 _2-