

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
ILLINOIS

Samantha Weber v. Petersen Health Network, LLC d/b/a Flora
Gardens Care Center

Weber · No. 23-cv-2344-JPG · Decided April 17, 2026

SUMMARY

The court dismisses Samantha Weber’s action without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute. The court concludes that Weber’s notice of voluntary dismissal was ineffective because the defendant had already filed an answer, but treats her response as demonstrating that she no longer wished to pursue the case.

CASE DETAILS

COURT	United States District Court for the Southern District of Illinois
WRITING FOR THE COURT	J. Phil Gilbert
JURISDICTION	United States District Court for the Southern District of Illinois
DECIDED	April 17, 2026
DOCKET	23-cv-2344-JPG
DISPOSITION	dismissed
PROCEDURAL POSTURE	The court considered plaintiff's response to an order to show cause why the case should not be dismissed for failure to prosecute. Plaintiff attempted to voluntarily dismiss the case without prejudice under Federal Rule of Civil Procedure 41(a)(1)(A)(i).
PRECEDENTIAL VALUE	unpublished

TOPICS

- civil procedure
- motions to dismiss
- bankruptcy

PRACTICE AREAS

- civil procedure
- bankruptcy

QUESTIONS PRESENTED

1. Whether plaintiff's notice of voluntary dismissal was effective under Federal Rule of Civil Procedure 41(a)(1)(A)(i) after defendant had filed an answer.
2. Whether the action should be dismissed without prejudice for failure to prosecute under Federal Rule of Civil Procedure 41(b).

HOLDINGS

1. A plaintiff may dismiss an action without a court order under Federal Rule of Civil Procedure 41(a)(1)(A)(i) only before the opposing party serves an answer or a motion for summary judgment. Because defendant had filed an answer, Weber's notice was ineffective.
2. The court may dismiss an action without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute when the plaintiff fails to comply with the court's case-management or reporting requirements and indicates that she no longer wishes to pursue the action.

KEY QUOTATIONS

“The notice itself effects the immediate dismissal of the suit; no further action by the Court is necessary.”

“Therefore, pursuant to its show cause order, the Court DISMISSES this case without prejudice pursuant to Rule 41(b) for failure to prosecute and DIRECTS the Clerk of Court to enter judgment accordingly.”

FACTUAL BACKGROUND

The action involved Petersen Health Network, LLC, doing business as Flora Gardens Care Center, and the defendant had filed an answer. The plaintiff failed to timely file a September 2026 report concerning the status of the defendant's bankruptcy. After receiving an order to show cause, the plaintiff stated through her response and attempted voluntary dismissal that she no longer wished to pursue the case.

PROCEDURAL HISTORY

The court had ordered Weber to show cause because she had not timely filed a report concerning the status of the defendant's bankruptcy. Weber responded with a notice of voluntary dismissal without prejudice. Because the defendant had already filed an answer, the court held that the notice was ineffective under Rule 41(a)(1)(A)(i), but dismissed the action without prejudice under Rule 41(b) for failure to prosecute and directed the clerk to enter judgment.

DISPOSITION

dismissed

CASES CITED

- Smith v. Potter, 513 F.3d 781, 782 (7th Cir. 2008)

OPINION

Weber

PER CURIAM.

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

SAMANTHA WEBER,

Plaintiff, Vv. Case No. 23-cv-2344-JPG

PETERSEN HEALTH NETWORK, LLC d/b/a

Flora Gardens Care Center, Defendant.

MEMORANDUM AND ORDER

This matter comes before the Court on plaintiff Samantha Weber's response (Doc. 45) to the Court's order for her to show cause why the Court should not dismiss this case for failure to prosecute because she did not timely file her September 2026 report on the status of the defendant's bankruptcy (Doc. 44). Weber responded with a notice of voluntary dismissal without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i).. Rule 41(a)(1)(A)(i) allows a plaintiff to dismiss an action without a court order at any time before the opposing party serves an answer or a motion for summary judgment. The notice itself effects the immediate dismissal of the suit; no further action by the Court is necessary. *Smith v. Potter*, 513 F.3d 781, 782 (7th Cir. 2008). The notice Weber filed, however, is not an effective notice under Rule 41(a)(1)(A)(i) because the defendant has filed an answer (Doc. 25). This is of little import because Weber's response makes it clear that she no longer wants to pursue this case. Therefore, pursuant to its show cause order, the Court DISMISSES this case without prejudice pursuant to Rule 41(b) for failure to prosecute and DIRECTS the Clerk of Court to enter judgment accordingly. IT IS SO ORDERED. DATED: April 17, 2026 (AL, 2 Shai

J. PHIL GILBERT

DISTRICT JUDGE