

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

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**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.

**OPINION**

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)() 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

