

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CITY OF DURHAM, NORTH  
CAROLINA,

Defendant.

Case No. 1:24-cv-838

**NOTICE OF VOLUNTARY DISMISSAL**

Plaintiff United States of America hereby dismisses the above-captioned case pursuant to Federal Rule of Civil Procedure 41(a)(1). The United States has determined not to proceed further in this matter.

“[P]laintiffs may voluntarily dismiss their claims without a court order.” *Frank v. Gaos*, 586 U.S. 485, 492 (2019) (citing Fed. R. Civ. P. 41(a)(1)(A)). Indeed, a plaintiff’s voluntary dismissal of a case under Rule 41(a)(1)(A)(i) before the defendant either files an answer or moves for summary judgment is “self-executing, *i.e.*, it is effective at the moment the notice is filed with the clerk and no judicial approval is required.” *Marex Titanic, Inc. v. Wrecked and Abandoned Vessel*, 2 F.3d 544, 546 (4th Cir. 1993) (collecting authorities). The plaintiff’s notice of voluntary dismissal “itself closes the file”; nothing is required from the court and there is “nothing the defendant can do to fan the ashes of that action into life.” *Id.* at 546 n.2 (citation omitted). Indeed, the district

court is divested of jurisdiction in the case after the plaintiff's filing of a notice of voluntary dismissal—the case cannot be reopened and no party can intervene. *See Emory v. Lowe's Home Ctrs., LLC*, No. 7:20-cv-629, 2021 WL 5361834, at \*1 (D.S.C. Jan. 21, 2021) (collecting Fourth Circuit authorities).

Under Rule 41(a)(1)(A)(i)'s plain terms, the only two things that can prevent a plaintiff's voluntary dismissal without a court order are a defendant's service of either an answer or a motion for summary judgment. This plain text controls. *See Marex Titanic*, 2 F.3d at 547 & n.6. It therefore does not matter if the parties or the court has expended time and effort to address other filings in a case, or if the court has begun considering the evidence in the case. *See id.* at 547 & n.5.

Here, the City of Durham has not served the United States with either an answer or a motion for summary judgment. The United States therefore has the right to voluntarily dismiss this case without a court order, and it hereby does so.

Dated: February 25, 2025

Respectfully submitted,

**FOR PLAINTIFF UNITED STATES OF AMERICA:**

CHAD MIZELLE

Acting Associate Attorney General

JASON MANION

Counselor to the Associate  
Attorney General

ANDREW McCOY WARNER  
Deputy Assistant Attorney  
General Civil Rights Division

RANDALL S. GALYON  
Acting United States Attorney  
Middle District of North Carolina

KAREN D. WOODARD  
Chief  
Employment Litigation Section

/s/ Lynn P. Klauer  
LYNNE P. KLAUER  
Assistant United States Attorney  
NCSB #13815  
101 S. Edgeworth Street, 4th Floor  
Greensboro, NC 27401  
Phone: (336) 333-5351  
Email: lynne.klauer@usdoj.gov

CLARE GELLER  
Deputy Chief  
Employment Litigation Section

/s/ Emily Given  
EMILY GIVEN  
NY Bar No. 5420211  
ROBERT RICH  
DC Bar No. 1016908  
Senior Trial Attorneys  
Civil Rights Division  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530  
(202) 532-5696  
(202) 598-9898  
Emily.Given@usdoj.gov  
Robert.Rich@usdoj.gov

**CERTIFICATE OF SERVICE**

I hereby certify that on February 25, 2025, I electronically filed the foregoing Notice of Voluntary Dismissal using the Court's CM/ECF system, which will send notification of such filing to all counsel of record.

*/s/ Emily Given* \_\_\_\_\_