

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

EVAN LAMBERT,

Plaintiff,

v.

JOHN C. HARRIS, JR., *in his personal
capacity.*

Defendants.

CASE NO. 4:23-cv-2200

**NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 41**

Pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i), Plaintiff Evan Lambert (“Mr. Lambert”) hereby provides notice of the voluntary dismissal without prejudice of his claims against Defendant John C. Harris, Jr. (“Harris”). Because Harris is the only remaining defendant in this action and has not yet served an answer, dismissal of Plaintiff’s claims against Harris resolves “the entire controversy” and voluntary dismissal by notice under Rule 41(a) is proper. *Philip Carey Mfg. Co. v. Taylor*, 286 F.2d 782, 785 (6th Cir. 1961).¹

¹ On December 22, 2023, Plaintiff filed notice of his timely acceptance of an offer of judgment pursuant to Fed. R. Civ. P. 68 from Defendants City of East Palestine and Columbiana County. See ECF No. 13. Such a notice is “self-executing” because Rule 68 “leaves no discretion in the district court to do anything but enter judgment once an offer has been accepted.” *Mallory v. Eyrich*,
(Cont’d on next page)

Dated: February 2, 2024

/s/ Katie Townsend
Katie Townsend
ktownsend@rcfp.org
Grayson Clary
gclary@rcfp.org
Emily Hockett (*pro hac vice*)
ehockett@rcfp.org
REPORTERS COMMITTEE FOR
FREEDOM OF THE PRESS
1156 15th Street NW, Suite 1020
Washington, DC 20005
Phone: 202.795.9300
Facsimile: 202.795.9310

/s/ Andrew Geronimo
ANDREW GERONIMO
andrew.geronimo@case.edu
/s/ Sara Coulter
SARA COULTER
sara.coulter@case.edu
First Amendment Clinic
CASE WESTERN RESERVE UNIVERSITY
SCHOOL OF LAW
11075 East Boulevard
Cleveland, Ohio 44106
Telephone: (216) 368-2766

Attorneys for Plaintiff EVAN LAMBERT

922 F.2d 1273, 1279 (6th Cir. 1991). And as the Sixth Circuit has explained, a notice of acceptance is effective as of the date “when the offer and acceptance were filed by the parties,” even if the clerk has not yet performed “the ministerial act of entering judgment.” *Oates v. Oates*, 866 F.2d 203, 208 (6th Cir. 1989); *see also id.* (noting that the entry of judgment *nunc pro tunc* is proper under those circumstances). Defendants Brian McLaughlin, Jennifer Tucker, James Brown III, and Daniel Haueter were dismissed from the action pursuant to the Court’s order of January 18, 2024. *See* ECF No. 21.

CERTIFICATE OF SERVICE

I hereby certify that, on February 2, 2024, a copy of the foregoing was electronically filed with the Clerk of the Court using CM/ECF, which will automatically send notice of such filing to all counsel of record.

/s/ Katie Townsend
Katie Townsend
Counsel for Plaintiff Evan Lambert