

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

ANDREA WEST FERGUSON

PLAINTIFF

VS.

3:12-CV-00170-BRW

**ROBERT L. WARNER, JR., M.D., and
SURGICAL ASSOCIATES OF
JONESBORO, INC.**

DEFENDANTS

ORDER

Pending is Plaintiff's Motion for Permission to Non-suit Separate Defendant Surgical Associates of Jonesboro (Doc. No. 49).

Under Rule 41(a)(2) of the Federal Rules of Civil Procedure, once a defendant has answered a complaint, the plaintiff must obtain permission from the court before the defendant can be voluntarily dismissed unless all the parties agree in writing to the dismissal.¹ The requested dismissal should be granted unless it would unfairly prejudice the defendant.²

Here, Surgical Associates of Jonesboro has answered Plaintiff's Complaint, but all the parties have not agreed in writing to the dismissal.³ However, it appears that neither Defendant would be prejudiced if I granted the dismissal.

Accordingly, Plaintiff's Motion (Doc. No. 49) is GRANTED, and Separate Defendant Surgical Associates of Jonesboro is hereby DISMISSED from this action without prejudice.

¹Fed. R. Civ. P. 41.

²*Exigence LLC v. Catlin Underwriting Agency US, Inc.*, No. 4:09-CV-00915-SWW, 2013 WL 655109 (E.D. Ark. Feb. 21, 2013).

³Doc. No. 33.

Additionally, because Surgical Associates of Jonesboro has been dismissed, its Rule 10(c) Motion (Doc. No. 40) and Motion in Limine (Doc. No. 47) are DISMISSED as MOOT.

IT IS SO ORDERED this 29th day of March, 2013.

/s/Billy Roy Wilson
UNITED STATES DISTRICT JUDGE