

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

DEMETRIUS WILLIAMS,

Plaintiff,

vs.

Case No. 17-cv-1128-DRH-SCW

**NORFOLK SOUTHERN
RAILWAY COMPANY,**

Defendant.

MEMORANDUM AND ORDER

HERNDON, District Judge:

Now before the Court is plaintiff Demetrius Williams' motion to dismiss pursuant to FEDERAL RULE OF CIVIL PROCEDURE 41(a)(2) (Doc. 26). Plaintiff seeks to dismiss this action without prejudice at plaintiff's costs. Defendant filed a response opposing plaintiff's motion arguing that a voluntary dismissal is improper in light of defendant's answer and plaintiff's failure to satisfy the necessary factors for a Rule 41(a)(2) voluntary dismissal (Doc. 30). Alternatively, defendant proposes that if the Court grants plaintiff's request to dismiss without prejudice, the Court shall order that plaintiff must pay defendant's costs, expenses, and attorneys' fees associated with the removal of this action and defending itself in federal court, and find that any future attempt by plaintiff to "start over" must be filed in this Court, not in St. Clair County.

Based on the reasons set forth in the motion and response, the Court **GRANTS** plaintiff's motion to dismiss without prejudice, but does so with

conditions. First, in the event that this case comes back to this Court, any discovery previously completed during the time period when this case was open shall be reinstated as though completed in the new case. Second, if the case comes back to this Court by way of removal, plaintiff shall reimburse defendants \$3200 for the preparation and filing of the notice of removal of this case in the first instance. If plaintiff contends that the removal is improper by law, he may litigate that question before the Court prior to such reimbursement and only if said motion is disallowed shall he be required to reimburse defendant the \$3200.00 set by the Court.

Accordingly, plaintiff's motion to voluntary dismiss (Doc. 26) is **GRANTED**.

The Clerk is **DIRECTED** to close the file.

IT IS SO ORDERED.

David Herndon



Judge Herndon

2018.05.15

14:52:46 -05'00'

United States District Judge