

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION**

ANGELICA GARZA,

Plaintiff,

v.

CAUSE NO.: 2:19-CV-293-TLS-JEM

EDWARD HOUSE, RYDER TRUCK  
RENTAL, CAMPBELL SOUP COMPANY,  
GARDEN FRESH GOURMET, LLC, and  
WM. BOLTHOUSE FARMS, INC. a/k/a  
BOLTHOUSE,

Defendants.

**OPINION AND ORDER**

This matter is before the Court on the parties' Partial Stipulation of Dismissal or in the Alternative Joint Motion to Dismiss Defendant, Ryder Truck Rental, LLC [ECF No. 52], filed on November 13, 2020. Therein, the Plaintiff and Defendants "agreed that pursuant to Federal Rule of Civil Procedure 41(a)(1), the above cause of action should be dismissed against Ryder only, without prejudice," or "[a]lternatively . . . the Parties request that Ryder be dismissed pursuant to Rule 41(a)(2)."

The Seventh Circuit Court of Appeals has held that the proper procedure for dismissal of individual parties or claims is by the amendment of pleadings under Federal Rule of Civil Procedure 15(a) and not by dismissal under Federal Rule of Civil Procedure 41(a). *Taylor v. Brown*, 787 F.3d 851, 857–58, 858 n.9 (7th Cir. 2015) (explaining that "Rule 15(a) allows a plaintiff to amend his complaint—including by adding or dropping parties and claims—as a matter of right in some situations and by court order in others" and reminding district courts to use Rule 15(a) rather than Rule 41(a) for dismissal of individual claims); *see also* 6 Fed. Prac. & Proc. Civ. § 1479 (3d ed.).

Accordingly, the Court DENIES the Partial Stipulation of Dismissal or in the Alternative Joint Motion to Dismiss Defendant, Ryder Truck Rental, LLC [ECF No. 52] without prejudice. Pursuant to Federal Rule of Civil Procedure 15(a)(2), the Court GRANTS the Plaintiff leave to file, on or before February 12, 2021, an amended complaint against Defendants Edward House; Campbell Soup Company; Garden Fresh Gourmet, LLC; and WM. Bolthouse Farms, Inc. as the remaining defendants in order to drop Defendant Ryder Truck Rental as a party. However, the Court ORDERS that the pending Motion to Dismiss [ECF No. 35] filed by Defendant Campbell Soup Company shall remain pending as to the Amended Complaint.

SO ORDERED on January 28, 2021.

s/ Theresa L. Springmann  
JUDGE THERESA L. SPRINGMANN  
UNITED STATES DISTRICT COURT