

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

JOHN H. DAVIS, SHELIA D. DAVIS, and
ERIC S. DAVIS,

Plaintiffs,

v.

CAUSE NO.: 2:20-CV-266-TLS-APR

LIMESTONE COUNTY ALABAMA
DEPARTMENT OF HUMAN
RESOURCES, et al.,

Defendants.

OPINION AND ORDER

This matter is before the Court on a Verified Emergency Motion for Temporary Restraining Order Without Notice [ECF No. 79], a Verified Emergency Motion for Relief [ECF No. 80], and a Verified Motion for Preliminary Injunction Relief [ECF No. 81], filed by John H. Davis and Shelia D. Davis on February 15, 2021.

On October 12, 2020, the Plaintiffs filed a Notice of Dismissal Under Federal Rule of Civil Procedure 41(a)(1)(A)(i) [ECF No. 74], which dismissed the case without prejudice, *see* Oct. 16, 2020 Order, ECF No. 77. The voluntary dismissal is self-executing and closed the case. *See* Fed. R. Civ. P. 41(a)(1)(A) (“Without a Court Order”); *Jenkins v. Village of Maywood*, 506 F.3d 622, 624 (7th Cir. 2007). “A suit that is voluntarily dismissed under Rule 41(a) generally is treated as if it had never been filed.” *Nelson v. Napolitano*, 657 F.3d 586, 587 (7th Cir. 2011) (citing *Smith v. Potter*, 513 F.3d 781, 783 (7th Cir. 2008); *Beck v. Caterpillar, Inc.*, 50 F.3d 405, 407 (7th Cir. 1995)). “Once an action has been dismissed under Rule 41(a)(1) without prejudice, the plaintiff may bring the suit again by filing a new complaint.” *Id.* at 588 (citing *Richmond v. Chater*, 94 F.3d 263, 267 (7th Cir. 1996); *Adams v. Lever Bros. Co.*, 874 F.2d 393, 395–96 (7th

Cir. 1989); *McCall–Bey v. Franzen*, 777 F.2d 1178, 1184 (7th Cir. 1985); Fed. R. Civ. P. 3 (“A civil action is commenced by filing a complaint with the court.”)). In this case, the voluntary dismissal on October 12, 2020, terminated this action, and the Court lacks jurisdiction to consider the three pending motions. *See Nelson*, 657 F.3d at 588–89 (discussing the limited matters over which a court has jurisdiction following voluntary dismissal under Rule 41(a)(1)).

Accordingly, the Court STRIKES the Verified Emergency Motion for Temporary Restraining Order Without Notice [ECF No. 79], the Verified Emergency Motion for Relief [ECF No. 80], and the Verified Motion for Preliminary Injunction Relief [ECF No. 81]. Any relief based on these motions must be filed in a new cause of action under a new cause number.

SO ORDERED on February 17, 2021.

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