

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

LORRAINE J. HUBER,

Plaintiff,

v.

UNITED STATES OF AMERICA and  
JEFFREY G. KUHN,

Defendants.

CAUSE NO.: 2:21-CV-262-TLS-JEM

**OPINION AND ORDER**

This matter is before the Court on a Motion to Dismiss Defendant Jeffrey G. Kuhn, Only [ECF No. 13], filed by the Plaintiff on November 23, 2021. The Plaintiff seeks dismissal of Defendant Jeffrey G. Kuhn because he was acting within the scope of his employment. The Defendants have not responded.

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.).

The Plaintiff did not specify whether the motion was brought pursuant to Federal Rule of Civil Procedure 15(a) or 41(a). The Court will construe the motion as a motion to amend the complaint under Rule 15(a)(2).

The Court GRANTS the Plaintiff's Motion [ECF No. 13]. The Court ORDERS the Plaintiff file, on or before December 27, 2021, an amended complaint against the United States of America in order to drop Jeffery G. Kuhn as a party.

SO ORDERED on December 13, 2021.

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