

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SHAWN J.P. LIETAR,

Plaintiff,

vs.

NANCY A. BERRYHILL,

Defendant.

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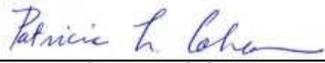
Case no. 4:16cv01506 PLC

MEMORANDUM AND ORDER

Plaintiff moves for leave to voluntarily dismiss the complaint without prejudice [ECF No. 22]. Plaintiff’s counsel states a review of the record reveals it is not in Plaintiff’s best interest to pursue his claim for Disability Insurance Benefits under the Social Security Act, and reports that “Plaintiff is in agreement. (Exhibit A).” Exhibit A attached to the motion, however, does not reflect Plaintiff’s position on the proposed dismissal but instead is an “Assignment of EAJA Fees.” See ECF No. 22-1. In addition, the motion does not reveal what position, if any, Defendant has on the proposed dismissal. Defendant filed her answer on November 23, 2016 [ECF No. 13]. Federal Rule of Civil Procedure 41(a) permits a voluntary dismissal after an answer is filed upon court order and “on terms that the court considers proper.” Under the circumstances,

IT IS HEREBY ORDERED that, within seven days of the date of this Order, (1) Plaintiff shall file a statement by Plaintiff setting forth his position on the proposed dismissal

without prejudice and (2) Defendant shall file a statement of her position with regard to the proposed dismissal without prejudice.



PATRICIA L. COHEN
UNITED STATES MAGISTRATE JUDGE

Dated this 6th day of April, 2017.