

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

MD ELTON R. KERR,

Plaintiff,

:

Case No. 3:07-cv-297

-vs-

Magistrate Judge Michael R. Merz

:

MD WILLIAM W. HURD, et al.,

Defendants.

ORDER STRIKING NOTICE OF DISMISSAL

This case is before the Court *sua sponte* on Plaintiff's filing of a Notice Dismissing Second and Fourth Causes of Action (Doc. No. 105). Plaintiff gives no indication whether the dismissal is intended to be with or without prejudice or of any discussion of this matter with Defendants' counsel. Plaintiff also does not cite any authority for such a filing. Fed. R. Civ. P. 41 authorizes dismissal of cases, but not pieces of cases. If Plaintiff has abandoned these two claims in his Memorandum in Opposition to Defendants' Motions for Summary Judgment, the Court will treat them as thus abandoned when it decides those Motions. If, on the other hand, Plaintiff is attempting to have these two claims dismissed without prejudice, he can do so only with Defendants' consent or on motion to amend the Complaint.

August 24, 2009.

s/ **Michael R. Merz**
United States Magistrate Judge