

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**JOHN FRESHWATER, et al.,**

**Plaintiffs,**

**v.**

**MOUNT VERNON CITY SCHOOL  
DISTRICT BOARD OF EDUCATION, et al.,**

**Defendants.**

**Case No.: 2:09-cv-464**

**JUDGE GREGORY L. FROST  
Magistrate Judge Norah McCann King**

**ORDER**

This matter is before the Court for consideration of the Stipulated Dismissal Pursuant to Rule 41(a)(1)(A)(ii) for Claim of Plaintiffs John and Nancy Freshwater Regarding Count 18 of the Amended Complaint. (Doc. # 103.) In that Stipulation, the parties purport to utilize Rule 41(a)(1) of the Federal Rules of Civil Procedure to dismiss with prejudice a single claim from this action. Federal Rule of Civil Procedure 41(a) is only available to dismiss entire actions, not single claims. Fed. R. Civ. P. 41(a)(1)(A)(ii) (“the plaintiff may dismiss an action without a court order by filing . . . a stipulation of dismissal signed by all parties who have appeared”); *see also Barrientos v Ut-Battelle, LLC*, 284 F. Supp.2d 908, 916 (S.D. Ohio 2003) and *Letherer v. Alger Group, L.L.C.*, 328 F.3d 262, 265-66 (6th Cir. 2003), *recognized as overruled on other grounds in Blackburn v. Oaktree Capital Mgmt., LLC*, 511 F.3d 633, 636 (6th Cir. 2008). Rule 15(a), however, permits a party to amend its pleading by leave of court, which “shall be freely given when justice so requires.” Fed. R. Civ. P. 15(a)(2).

The Court assumes that the parties intended to effectuate the attempted dismissal

