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Clerk of the
Appellate Courts

IN THE SUPREME COURT OF TENNESSEE
AT KNOXVILLE
May 25, 2022 Session¹

GEORGE GARY INGRAM v. DR. MICHAEL GALLAGHER ET AL.

**Appeal by Permission from the Court of Appeals
Circuit Court for Hamilton County
No. 18-C-1272 Ward Jeffrey Hollingsworth, Judge**

No. E2020-01222-SC-R11-CV

The issue before us is whether the voluntary dismissal of a defendant in a multi-defendant case that is governed by the Governmental Tort Liability Act (“GTLA”) may be set aside and the claim against the dismissed defendant reinstated on the motion of a plaintiff pursuant to Tennessee Rule of Civil Procedure 54.02. The plaintiff in this case initiated a healthcare liability action against a physician, a hospital, and two other defendants. Before any responsive pleading was filed by any defendant, the plaintiff filed an amended complaint, naming only the physician as a defendant. The plaintiff subsequently filed a notice of voluntary dismissal that dismissed all of the defendants except the physician, and the trial court entered an order of voluntary dismissal the following day. In his answer to the amended complaint, the physician argued that the lawsuit should be dismissed under the GTLA because the hospital, which was his employer and a governmental entity, was not a defendant. The plaintiff subsequently filed a motion to alter or amend in which he sought to set aside the trial court’s order voluntarily dismissing the hospital from the action. The trial court denied the motion to alter or amend. The trial court later dismissed the hospital from the action with prejudice and granted a motion for summary judgment filed by the physician. The Court of Appeals reversed, concluding that the trial court erred in denying the plaintiff’s motion to alter or amend the order of voluntary dismissal. Upon our review of this case, we do not reach the question of whether the voluntary dismissal order could be altered or amended pursuant to Rule 54.02. Because the plaintiff removed the hospital from the lawsuit when he filed his amended complaint, the plaintiff’s notice of voluntary dismissal and the trial court’s order of voluntary dismissal were of no legal effect. Accordingly, there was no valid order of voluntary dismissal to alter or amend. As a result,

¹ We heard oral argument in this case at Tennessee Technological University in Cookeville, Tennessee, as part of the Tennessee American Legion Boys State S.C.A.L.E.S. (Supreme Court Advancing Legal Education for Students) project.

we reverse the decision of the Court of Appeals and remand the case to the Court of Appeals for consideration of the issues it deemed pretermitted as moot.

Tenn. R. App. P. 11 Appeal by Permission; Judgment of the Court of Appeals Reversed; Case Remanded to the Court of Appeals

JEFFREY S. BIVINS, J., delivered the opinion of the Court, in which ROGER A. PAGE, C.J., SHARON G. LEE, HOLLY KIRBY, and SARAH K. CAMPBELL, JJ., joined.

Arthur P. Brock and Drew H. Reynolds, Chattanooga, Tennessee, for the appellants, Dr. Michael Gallagher, and Chattanooga-Hamilton County Hospital Authority d/b/a Erlanger Health System.

W. Neil Thomas, III and Michael M. Thomas, Chattanooga, Tennessee, for the appellee, George Gary Ingram.

OPINION

I. FACTUAL AND PROCEDURAL HISTORY

In July 2017, George Gary Ingram (“Mr. Ingram”) suffered from medical complications following a procedure performed by Dr. Michael Gallagher (“Dr. Gallagher”) while Mr. Ingram was a patient at the Chattanooga-Hamilton County Hospital Authority d/b/a Erlanger Health System (“Erlanger”). Mr. Ingram initiated a healthcare liability action in the Hamilton County Circuit Court on November 14, 2018, and named as defendants Dr. Gallagher, Dr. Mac Worthington, the Chattanooga Neurosurgery and Spine Group, and Erlanger. In accordance with sections 121 and 122 of the Health Care Liability Act (“HCLA”), Mr. Ingram filed a certificate of good faith with his complaint and stated in his complaint that he had given pre-suit notice to the defendants. Tenn. Code Ann. §§ 29-26-121 to 122.

On November 26, 2018, Mr. Ingram filed an amended complaint pursuant to Tennessee Rule of Civil Procedure 15.01 in which he named Dr. Gallagher as the sole defendant. Five minutes after filing the amended complaint, Mr. Ingram filed a Tennessee Rule of Civil Procedure 41 notice of voluntary dismissal of his claims against the Chattanooga Neurosurgery and Spine Group, Dr. Worthington, and Erlanger. The following day, the trial court entered an order dismissing without prejudice the Chattanooga Neurosurgery and Spine Group, Dr. Worthington, and Erlanger.

On January 10, 2019, Dr. Gallagher filed his answer to the amended complaint. Among the six defenses Dr. Gallagher raised in his answer was a defense that the complaint

should be dismissed pursuant to the GTLA—specifically, Tennessee Code Annotated section 29-20-310(b)—because Dr. Gallagher was an employee of a governmental entity, Erlanger, and, contrary to that statutory provision’s requirement that “the governmental entity is also made a party defendant to the action,” Erlanger was no longer a party defendant.

On January 31, 2019, Mr. Ingram filed a motion to amend his complaint in an effort to reinstate Erlanger as a defendant. Dr. Gallagher filed a response in opposition to the motion, arguing that the proposed amendment would be futile because it would not relate back pursuant to Tennessee Rule of Civil Procedure 15.03, a rule that permits an amendment to relate back to the date of the original filing of the complaint when there is a “mistake concerning the identity of the proper party.” Dr. Gallagher also argued that Tennessee Code Annotated section 28-1-105 (the “Savings Statute”)² does not apply to Erlanger because it is a governmental entity.

On February 27, 2019, before the trial court ruled on his motion to amend the complaint, Mr. Ingram filed a motion to alter or amend the order dismissing Erlanger as a defendant on the grounds that “Erlanger was inadvertently dismissed in light of the affirmative defense assertion by a co-defendant, Dr. Michael Gallagher, that Erlanger is a necessary party to this action.” In his brief in support of his motion to alter or amend, Mr. Ingram argued that, pursuant to Tennessee Rule of Civil Procedure 54.02,³ the order voluntarily dismissing Erlanger as a defendant could be amended to rescind the dismissal because it was not a final order. Mr. Ingram also argued that, because he was “not entirely

² The Savings Statute provides, in pertinent part, that:

[i]f the action is commenced within the time limited by a rule or statute of limitation, but the judgment or decree is rendered against the plaintiff upon any ground not concluding the plaintiff’s right of action . . . the plaintiff . . . may, from time to time, commence a new action within one (1) year after the reversal or arrest.

Tenn. Code Ann. § 28-1-105(a).

³ Tennessee Rule of Civil Procedure 54.02(1) provides, in pertinent part, that

[w]hen more than one claim for relief is present in an action, whether as a claim, counterclaim, cross-claim, or third party claim, or when multiple parties are involved, the Court, whether at law or in equity, may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment. In the absence of such determination and direction, any order or other form of decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of the judgment adjudicating all the claims and the rights and liabilities of all the parties.

sure whether Erlanger was an employer of Dr. Gallagher” nor whether the statute Dr. Gallagher relied on—Tennessee Code Annotated section 310(b)—applied to the case, relief could be granted pursuant to Tennessee Rule of Civil Procedure 60, which provides relief “from an order due to oversight or omission.”

Dr. Gallagher filed a response in opposition to the motion to alter or amend, arguing that the motion should be denied because: (1) the voluntary dismissal of Erlanger was “complete and effective” because it placed Erlanger in the same position as if it had never been a party to the suit; (2) Tennessee Rule of Civil Procedure 54.02 does not apply to voluntary nonsuits; (3) Tennessee Rule of Civil Procedure Rule 60 provides no relief to Mr. Ingram because Dr. Gallagher’s employment with Erlanger was “neither new nor unknown;” and (4) the nonsuit as to Erlanger was final and Erlanger was not subject to reinstatement as a defendant pursuant to the Savings Statute. According to Dr. Gallagher, Mr. Ingram’s attempts to amend the complaint and the order of voluntary dismissal to reinitiate an action against Erlanger were futile, as such an action would not relate back to the date of the filing of the original complaint and “any refile against Erlanger . . . would be barred by the [GTLA].”

On April 9, 2019, the trial court entered an order denying Mr. Ingram’s motion to amend the complaint and his motion to alter or amend the order voluntarily dismissing Erlanger from the action. With regard to the motion to amend the complaint, the trial court first concluded that Dr. Gallagher had standing to object to the amendment of the complaint, as granting the motion would result in the addition of Erlanger as a defendant and, therefore, have a direct effect on Dr. Gallagher’s case. The trial court also concluded that the Savings Statute did not apply because it cannot be applied in GTLA cases. The trial court noted that Mr. Ingram’s original complaint was timely filed but stated that Mr. Ingram’s “dismissal of his claims against Erlanger ended the matter” because the statute of limitations ran before he filed his proposed amended complaint. The trial court also held that the proposed amended complaint would not relate back to the date of the original complaint pursuant to Tennessee Rule of Civil Procedure 15.03 because “there was no confusion as to Erlanger’s identity.” The trial court, therefore, determined that the proposed amendment would be futile and denied the motion to amend the complaint.

In denying Mr. Ingram’s motion to alter or amend the order of voluntary dismissal, the trial court stated the following:

[Mr. Ingram] has filed a motion to alter or amend the order dismissing Erlanger as a defendant. He cites Rule 54 and 60 as authority. In his motion, he argues that the order of dismissal was not a final order resolving all issues in the case. Therefore, it is contended, that order can be amended to remove Erlanger from the list of defendants being dismissed. He also argues that the

dismissal of Erlanger was inadvertent and a mistake, which can be corrected under Rule 60.

For the reasons set forth previously, it is difficult to say the dismissal of Erlanger was a mistake. [Mr. Ingram] knew that it was at least possible that Dr. Gallagher was an employee of Erlanger. In regard to Erlanger, the order of dismissal was final. Upon dismissal, the case against Erlanger was over. If the saving statute applied, it could be revived if refiled within one year. However, the saving statute does not apply and the case against Erlanger cannot be brought back to life.

Approximately three weeks before the trial court entered the order denying Mr. Ingram's motions, Mr. Ingram filed another motion to amend the complaint, a brief in support of his motion, and a copy of the amended complaint.⁴ In this amended complaint, Mr. Ingram asserted a cause of action of fraudulent concealment against Dr. Gallagher and Erlanger. Specifically, Mr. Ingram alleged that Dr. Gallagher and Erlanger had concealed certain information regarding Mr. Ingram's medical care, which prevented him from discovering the nature of his injuries. According to Mr. Ingram, because of the concealment, the statute of limitations did not begin to run until his medical records were reviewed in detail in July 2018. Mr. Ingram stated in his amended complaint that he had complied with the pre-suit notice requirements of Tennessee Code Annotated section 29-26-121(a) and had filed a certificate of good faith with the original complaint. However, Mr. Ingram did not provide documentation of his compliance with the pre-suit notice requirements nor did he file a certificate of good faith with the amended complaint. On May 17, 2019, the trial court granted the motion to amend the complaint. Dr. Gallagher and Erlanger subsequently each filed their answers to the amended complaint.

On February 19, 2020, Erlanger filed a motion to dismiss Mr. Ingram's amended complaint as to Erlanger and a memorandum in support of its motion. Erlanger argued that the complaint failed to state a claim upon which relief could be granted because Mr. Ingram had failed to provide new pre-suit notice prior to filing his amended complaint, file with his amended complaint proof of service of pre-suit notice, and file a new certificate of good faith with the amended complaint.

Mr. Ingram opposed the motion to dismiss. He first argued that he had filed the amended complaint only because Dr. Gallagher had raised the defense that Erlanger was a necessary party. When Dr. Gallagher raised this defense, Mr. Ingram sought to "bring Erlanger back into the case under a derivative claim." Mr. Ingram also argued that the motion to dismiss should be denied because Dr. Gallagher's defense essentially was one of

⁴ The trial court's April 9, 2019 order acknowledged that Mr. Ingram had filed this motion to amend but stated that the motion would be addressed in a separate order.

comparative fault and, therefore, Dr. Gallagher was the party that was required to provide pre-suit notice to Erlanger. Lastly, Mr. Ingram argued that he was not required to provide new pre-suit notice nor file a new certificate of good faith because his amended complaint was not a “new action” against Erlanger. According to Mr. Ingram, the amended complaint was filed to “re-assert a claim in an amended pleading in the same case, not a fresh case filed months later.”

On March 18, 2020, the trial court entered an order dismissing with prejudice Mr. Ingram’s claims against Erlanger. The trial court determined that the allegations against Erlanger—other than the allegation that Erlanger concealed Dr. Gallagher’s negligence—involved vicarious liability, not comparative fault. The court found that the plain language of Tennessee Code Annotated section 29-26-101(a)(1)—the section of the HCLA that defines a “health care liability action”—mandated that a claim against an employer whose liability is vicarious is a healthcare liability claim and that, as a result, the pre-suit notice and certificate of good faith requirements applied in this case. Lastly, the court held that Mr. Ingram’s amended complaint constituted a new action against Erlanger and that, consequently, Mr. Ingram was required to provide new pre-suit notice and a new certificate of good faith. The court stated that even if it were found that Erlanger fraudulently concealed Dr. Gallagher’s negligence, that would only extend the statute of limitations and would not relieve Mr. Ingram of the statutory pre-suit notice and certificate of good faith requirements.

After the trial court dismissed the claims against Erlanger with prejudice, Dr. Gallagher filed a motion for summary judgment asking the court to dismiss all claims against him as a matter of law. Dr. Gallagher argued that he was entitled to judgment as a matter of law because there was no genuine issue of material fact regarding his employment with Erlanger and Erlanger was required to be a party pursuant to Tennessee Code Annotated section 29-20-310(b) but could not be following its dismissal from the action. Dr. Gallagher asserted that, because Erlanger was not and could not be a party to the action, Mr. Ingram could not proceed with his health care liability action against Dr. Gallagher alone. Along with his motion, Dr. Gallagher also filed a memorandum in support of the motion, an affidavit by him, and a statement of undisputed material facts.

Mr. Ingram opposed Dr. Gallagher’s motion for summary judgment. Mr. Ingram disagreed with Dr. Gallagher’s assertion that Tennessee Code Annotated section 29-20-310(b) required Erlanger to be a party to the action. Mr. Ingram contended that the statute permitted a healthcare practitioner to be held personally liable “even if his employer is not named as a defendant[] if the liability sought to be attached to the individual practitioner exceeds the limits of insurance ‘actually carried by the governmental entity’ and is in excess of the limits of liability under [Tennessee Code Annotated section] 29-20-403.” Mr. Ingram then filed a motion for discovery regarding whether Erlanger maintained liability insurance for Dr. Gallagher or whether Dr. Gallagher maintained any such insurance. Mr.

Ingram also filed a response to Dr. Gallagher's statement of undisputed facts in which he admitted that Dr. Gallagher had been an employee of Erlanger since 2015, that Dr. Gallagher had been an employee of Erlanger throughout the time he provided treatment to Mr. Ingram, and that such treatment was rendered to Mr. Ingram in Dr. Gallagher's capacity as an employee of Erlanger and within the course and scope of his employment with Erlanger.

On August 19, 2020, the trial court entered an order granting Dr. Gallagher's motion for summary judgment and dismissing Mr. Ingram's claims against Dr. Gallagher with prejudice.⁵ The trial court found that Dr. Gallagher treated Mr. Ingram in the course and scope of his employment with Erlanger, a "governmental entity governed by the [GTLA]." The court concluded that, under the plain meaning and legislative intent of Tennessee Code Annotated section 29-20-310(b), Mr. Ingram could not bring any claim against Dr. Gallagher without Erlanger being a party to the action, and Erlanger was not and could not be a party.

Mr. Ingram appealed the trial court's decision to the Court of Appeals and raised the following issues:

- (1) whether the Trial Court erred by declining to set aside the interlocutory order of voluntary dismissal, which had dismissed Erlanger as a party; (2) whether the savings statute allows [Mr. Ingram] to refile his action against Erlanger within one year; (3) whether new pre-suit notice and a new certificate of good faith is required when a defendant has been voluntarily dismissed as a party and subsequently reinstated as a party; and (4) whether Erlanger is a required party under Tennessee Code Annotated § 29-20-310(b) when only damages in excess of the statutory limit were sought.

Ingram v. Gallagher, No. E2020-01222-COA-R3-CV, 2021 WL 3028161, at *4 (Tenn. Ct. App. July 19, 2021). The Court of Appeals first considered Mr. Ingram's argument that the trial court erred by declining to set aside the order voluntarily dismissing Erlanger from the action. Id. Mr. Ingram characterized the order of dismissal as an interlocutory order and argued that his motion to set aside the order of dismissal should have been granted pursuant to Tennessee Rule of Civil Procedure 54.02. Id. Dr. Gallagher and Erlanger contended that the order was not an interlocutory order subject to revision and that the voluntary dismissal of Erlanger was "complete and effective" when Mr. Ingram filed his notice of voluntary dismissal. Id. at *5.

The Court of Appeals agreed with Mr. Ingram's position that the order was an interlocutory order subject to revision. Id. The court reasoned that the order was not a

⁵ The trial court also denied Mr. Ingram's motion for discovery.

final order because at the time Erlanger was dismissed from the action, there was no final judgment in the case, as the order did not adjudicate the claims against Dr. Gallagher. Id. The court concluded that the trial court erred by treating Mr. Ingram’s motion to set aside the order as a Rule 60 motion, because Rule 60 motions only apply when there is a final judgment. Id. Instead, the intermediate appellate court explained, the trial court should have treated Mr. Ingram’s motion as a Rule 54.02 motion to revise. Id.

The Court of Appeals then considered whether the trial court erred in denying Mr. Ingram’s motion to revise the voluntary dismissal order. Id. Citing “Erlanger’s knowledge of the existence of the lawsuit, the short timeframe between the voluntary dismissal of Erlanger and subsequent motion to set aside the dismissal, the courts’ preference for resolving actions on the merits, and the clear language of Rule 54.02,” the court concluded that the trial court erred in denying Mr. Ingram’s motion to revise the dismissal order.⁶ Id. As a result, the court reversed the judgment of the trial court and vacated the orders granting Erlanger’s motion to dismiss and Dr. Gallagher’s motion for summary judgment. Id. at *6.

Dr. Gallagher and Erlanger appealed the decision of the Court of Appeals, and this Court granted review on November 17, 2021. See Tenn. R. App. P. 11.

II. ANALYSIS

On appeal, Dr. Gallagher and Erlanger have raised the issue of whether the Tennessee Rule of Civil Procedure 41.01(1) voluntary dismissal of one of multiple defendants in a GTLA case may be set aside and the claim against the dismissed defendant reinstated on the motion of a plaintiff pursuant to Tennessee Rule of Civil Procedure 54.02. In addition, Dr. Gallagher and Erlanger have raised five issues that were pretermitted as moot by the Court of Appeals’ decision:

(1) Whether [Mr. Ingram’s] Proposed Amendment Related Back Under T.R.C.P. 15.03; (2) Whether the Savings Statute, T.C.A. [Section] 28-1-105 Applies to Actions Against Governmental Entities Brought Pursuant to the [GTLA]; (3) Whether [Mr. Ingram] Was Required to Comply with T.C.A. [Sections] 29-26-121 and -122 in Connection with the May 23, 2019 Amended Complaint; (4) Whether T.C.A. [Section] 29-20-310(b) Permits Claims to Be Brought, or Judgment to Be Entered Against, a Health Care Practitioner for Damages for Which a Governmental Entity Is Liable If the Governmental Entity Is Not Made a Party Defendant to the Action; and (5) Whether [Mr. Ingram] Is Entitled to Relief Under T.C.A. [Section] 20-1-119 Pursuant to Bidwell v. Strait, 618 S.W.3d 309 (Tenn. 2021).

⁶ Because the Court of Appeals ruled in favor of Mr. Ingram on this issue, Mr. Ingram’s other issues were pretermitted as moot. Id.

As we begin our analysis, we note that the procedural history in this case presented an additional issue that was not raised by the parties. In an order entered on February 10, 2023, this Court ordered supplemental briefing asking the parties to address how, if at all, Mr. Ingram’s filing of the November 26, 2018 amended complaint—which named only Dr. Gallagher as a defendant—prior to the trial court’s order of voluntary dismissal impacted the resolution of this case.

In his supplemental brief, Mr. Ingram argued that the amended complaint did not dismiss Erlanger from the lawsuit. According to Mr. Ingram, the amended complaint merely dismissed Erlanger from the *pleading*. Mr. Ingram argued that Erlanger could only be dismissed pursuant to an order, and, therefore, the only effective dismissal in this case was the trial court’s order of voluntary dismissal. Dr. Gallagher and Erlanger argued that the filing of an amended complaint “that drops a party has the effect of terminating the action against that party and removing that party from the lawsuit.” Therefore, they argue, Mr. Ingram’s filing of the amended complaint removed Erlanger from the lawsuit.

Tennessee Rule of Civil Procedure 41.01(1) provides that a plaintiff has the right to take a voluntary nonsuit to dismiss an action without prejudice by filing a written notice of dismissal. In order for the dismissal to be effective, the notice must be followed by an order of voluntary dismissal. Tenn. R. Civ. Proc. 41.01(3). In this case, Mr. Ingram filed his initial complaint against Dr. Gallagher, Erlanger, Dr. Worthington, and the Chattanooga Neurosurgery and Spine Group. He subsequently filed an amended complaint on November 26, 2018 pursuant to Tennessee Rule of Civil Procedure 15.01⁷ that named Dr. Gallagher as the sole defendant. Also on November 26, 2018, five minutes after filing his amended complaint, Mr. Ingram filed a Tennessee Rule of Civil Procedure 41.01 notice of voluntary dismissal of his claims against Erlanger, Dr. Worthington, and the Chattanooga Neurosurgery and Spine Group. The next day, the trial court entered an order of voluntary dismissal regarding those parties. Mr. Ingram’s position is that this order was the only effective dismissal of Erlanger. Because an amended complaint may also serve to remove a party from a lawsuit, we disagree.

It has long been the rule in Tennessee that an “original complaint is superseded, and its effect as a pleading destroyed, by filing an amended complaint complete in itself, [] which does not refer to or adopt the original as a part of it.” Louisville & N.R. Co. v.

⁷ Tennessee Rule of Civil Procedure 15.01 provides that “[a] party may amend [its] pleadings once as a matter of course at any time before a responsive pleading is served.” Tenn. R. Civ. Proc. 15.01. Because Mr. Ingram’s amended complaint was filed as a matter of course, no consent from the opposing parties nor leave of court was required. See id. The amended complaint became effective the moment it was filed.

House, 56 S.W. 836, 836 (Tenn. 1900); see also Baker v. Louisville & N. Terminal Co., 61 S.W. 1029, 1031 (Tenn. 1901); McBurney v. Aldrich, 816 S.W.2d 30, 33 (Tenn. Ct. App. 1991) perm. app. denied (Tenn. Sept. 3, 1991); Hanson v. Levan, 647 S.W.3d 85, 90 (Tenn. Ct. App. 2021), perm. app. denied (Tenn. Jan. 13, 2022). In this case, Mr. Ingram’s original complaint alleged wrongdoing on the part of Dr. Gallagher, Erlanger, Dr. Worthington, and the Chattanooga Neurosurgery and Spine Group, and it named each of them as defendants. The amended complaint, however, only made allegations against Dr. Gallagher and named only Dr. Gallagher as a defendant. The amended complaint was complete in itself and did not refer to or adopt the original as a part of it. Thus, the amended complaint superseded and destroyed the effectiveness of the original complaint. This means that after the amended complaint was filed, only Dr. Gallagher remained a defendant in the action. Erlanger, Dr. Worthington, and the Chattanooga Neurosurgery and Spine Group had been removed from the action by virtue of the filing of the amended complaint, and no order was required to effectuate their removal. See Christian v. Lapidus, 833 S.W.2d 71, 73 (Tenn. 1992) (stating that because the amended complaint did not refer to or adopt the original, the “legal effect was to remove the Christians from the lawsuit and constitute an abandonment of [the] action against them”); see also Billingsley v. Ecsue, No. E2000-00463-COA-R3-CV, 2000 WL 1721664, at *2 (Tenn. Ct. App. Nov. 17, 2000) (“[T]he amended complaint that was filed had the effect of removing [the defendant] from the lawsuit, and as Christian recognized an amended complaint could have the effect of dismissing an action by rendering the first complaint of no legal effect.”).

The removal of Erlanger as a defendant at this point in the proceedings becomes determinative of our decision in this case. Because Erlanger was removed from the lawsuit the moment Mr. Ingram filed his amended complaint, Erlanger was no longer a defendant when Mr. Ingram filed his notice of voluntary dismissal nor when the trial court entered its order of voluntary dismissal. As such, both the notice and order of voluntary dismissal were of no legal effect.

In light of this procedural background, we need not answer the central question of whether the Tennessee Rule of Civil Procedure 41.01(1) voluntary dismissal of one of multiple defendants in a GTLA case may be set aside and the claim against the dismissed defendant reinstated on the motion of a plaintiff pursuant to Tennessee Rule of Civil Procedure 54.02. Because the trial court’s order of voluntary dismissal was of no legal effect due to Mr. Ingram’s November 26, 2018 amended complaint, there was no valid order of voluntary dismissal to alter or amend. As a result, the trial court correctly denied Mr. Ingram’s motion to alter or amend, albeit for different reasons. The decision of the Court of Appeals is reversed, and we remand to the Court of Appeals to address the issues it deemed pretermitted as moot.

CONCLUSION

We reverse the decision of the Court of Appeals. This case is remanded to the Court of Appeals for consideration of all issues it deemed pretermitted as moot. The costs on appeal are assessed against the appellee, Mr. Ingram.

JEFFREY S. BIVINS, JUSTICE