

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION**

INDEMNITY INSURANCE COMPANY)
OF NORTH AMERICA,)
)
Plaintiff,)

v.)

Case No. 10-cv-3236

SANDSTONE SOUTH, LLC, an Illinois)
limited liability, SANDSTONE NORTH,)
LLC, an Illinois limited liability company,)
BRIAN R. BRADSHAW, ERIC)
BRADSHAW, HOLLIS SHAFFER,)
ALVIN F. MARSH, BEVERLY MARSH,)
MARSH ENTERPRISES, d/b/a SAND)
BURR FARMS, ALVIN F. MARSH)
TRUST, HENRY LIKES, MAXINE)
LIKES, GARY WESTERMEYER,)
TERESA WESTERMEYER,)
WESTERMYER INDUSTRIES, INC., an)
Illinois corporation, DONALD)
WESTERMEYER, ESTHER)
WESTERMEYER, FRED BARNETT,)
ROBERTA BARNETT, JIMMIE)
GREGORY, and MARCELLA GREGORY,))
)
Defendants.)

ORDER & OPINION

On September 15, 2010, Plaintiff filed a Complaint for Declaratory Judgment against all named Defendants. (Doc. 1). Plaintiff seeks a Declaratory Judgment that it is not obligated to provide a defense to Sandstone South, LLC, Sandstone North, LLC, Brian R. Bradshaw, Eric Bradshaw, or Hollis Shaffer in a case pending in the Circuit Court of the Seventh Judicial Circuit in Scott County, Illinois, which is numbered 2010-L-3. (Doc. 1 at 5-6). In its Complaint, Plaintiff alleges that

Sandstone South, Sandstone North, Brian R. Bradshaw, Eric Bradshaw, and Hollis Shaffer have made a demand upon it to tender a defense in Case No. 2010-L-3 pursuant various Farmowners Liability Insurance Policies. (Doc. 1 at 7).

On November 9, 2010 Plaintiff sought and this Court granted the dismissal of Plaintiff's claims against Eric Bradshaw as he had withdrawn his tender of defense. (Doc. 18). Now before the Court is Plaintiff's Motion to Dismiss the entire action pursuant to Federal Rule of Civil Procedure 41, as Defendants Sandstone South, LLC, Sandstone North, LLC, Brian R. Bradshaw, and Hollis Shaffer have also withdrawn their tender of defense, thereby rendering the action moot. (Doc. 17). Pursuant to Rule 41(a), Plaintiff may unilaterally dismiss an action by filing a notice of dismissal before the opposing party serves an answer or a motion for summary judgment. FED R. CIV. P. 41(a)(i). Accordingly, Plaintiff's Motion to Voluntarily Dismiss this action is GRANTED, and the action is DISMISSED WITHOUT PREJUDICE. Each party shall bear its own costs. IT IS SO ORDERED.

CASE TERMINATED.

Entered this 19th day of November, 2010.

s/ Joe B. McDade

JOE BILLY McDADE
United States Senior District Judge