

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

WILLIAM M. CUNNINGHAM, JR.,)	
<i>PERSONAL REPRESENTATIVE AND</i>)	
<i>EXECUTOR OF THE ESTATE OF</i>)	
<i>REBECCA C. CUNNINGHAM, DECEASED,</i>)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 1:10-00671-KD-C
)	
HONEYWELL INTERNATIONAL, INC.,)	
<i>et al.,</i>)	
Defendants.)	

ORDER

This matter is before the Court on the Plaintiff’s “Rule 41(a)(1)(i) Notice of Dismissal Without Prejudice as to E. H. O’Neill Co., Inc.” (Doc. 58). Plaintiff voluntarily dismisses all of his claims against Defendant E.H. O’Neil Co., Inc. without prejudice.

A Rule 41(a)(1)(A)(i) Notice of Dismissal is permissible if filed “before the opposing party serves either an answer or a motion for summary judgment[.]” This action was commenced on December 3, 2010. (Doc. 1). The record reveals that Defendant E.H. O’Neil Co., Inc. has not filed an answer or motion for summary judgment in this case.

Accordingly, it is **ORDERED** that all of the Plaintiff’s claims against Defendant E.H. O’Neil Co., Inc. are hereby **DISMISSED** without prejudice.

Both parties shall bear their own costs.

Nothing herein shall be construed as dismissing any of the Plaintiff's claims against the remaining defendants.

DONE and ORDERED this the **5th** day of **April 2011**.

/s/ Kristi K. DuBose

KRISTI K. DuBOSE

UNITED STATES DISTRICT JUDGE