

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer

Civil Action No. 11-cv-02611-PAB-MEH

DELORES MARTIN,

Plaintiff,

v.

THE ESTATE OF AUSTIN KRAAL and
STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, a foreign corporation
authorized to do business in the State of Colorado,

Defendants.

ORDER

This matter is before the Court on the Notice of Dismissal of Defendant State Farm Mutual Automobile Insurance Company [Docket No. 23], in which plaintiff requests dismissal of defendant State Farm Mutual Automobile Insurance Company pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i). Despite Rule 41(a)(1)'s reference to the dismissal of an "action," the weight of authority permits a dismissal of all claims pursuant to Rule 41(a)(1)(A) against fewer than all defendants. See *Montoya v. FedEx Ground Package System, Inc.*, 614 F.3d 145, 148 (5th Cir. 2010); *Blaize-Sampeur v. McDowell*, 2007 WL 1958909, at *2 (E.D.N.Y. June 29, 2007) (noting that, although the Second Circuit had previously stated otherwise, it had "since adopted the approach of the majority of courts in other circuits – that is, that Rule 41(a) does not require dismissal of the action in its entirety" and permits dismissal of all claims as to a single defendant). Upon the filing of the Notice of Dismissal [Docket No. 23], this action was

dismissed without prejudice as to defendant State Farm Mutual Automobile Insurance Company.

DATED May 7, 2012.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge