

**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).

Defendant Eric Bradshaw was served with a copy of the Complaint on September 20, 2010 and his answer was due by October 12, 2010. (Doc. 4). On October 11, 2010 Defendant Eric Bradshaw filed a Motion for Extension of Time to Answer in order to investigate the allegations in the Complaint for Declaratory Judgment and prepare responsive pleadings. (Doc. 13). He was granted until November 11, 2010 to answer or otherwise plead. (Text Order of 10/13/2010). As of this date, no answer has been filed.

Now before the Court is Plaintiff's Motion to Dismiss Eric Bradshaw pursuant to Federal Rule of Civil Procedure 41. (Doc. 17). According to Plaintiff, Defendant Eric Bradshaw has withdrawn his tender of defense, which has rendered this action against him moot.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 Defendant Eric Bradshaw is GRANTED, and Defendant Eric Bradshaw is DISMISSED. This action shall proceed as to the other Defendants. IT IS SO ORDERED.

Entered this 9th day of November, 2010.

s/ Joe B. McDade  
\_\_\_\_\_  
JOE BILLY McDADE  
United States Senior District Judge