

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

PAMELA COTTON,

Plaintiff,

v.

CITY OF ALORTON, MICHAEL BAXTON, JR.
and MICHAEL BAXTON, SR.,

Defendants.

Case No. 13-cv-722-JPG-PMF

MEMORANDUM AND ORDER

This matter comes before the Court on a “Notice of Dismissal” of Counts V to VIII filed by plaintiff Pamela Cotton (Doc. 10). The Court notes that Cotton’s filing cites Federal Rule of Civil Procedure 41(a)(1)(A), which allows dismissal of an action by a plaintiff without a court order at any time before service by an adverse party of an answer or of a motion for summary judgment, whichever first occurs. *See* Fed. R. Civ. P. 41(a)(1)(A)(i). Rule 41(a)(1)(A) is inapplicable, though, because it speaks of dismissing an *entire action*, that is, all claims against a defendant, but Cotton seeks only to dismiss *some* claims against each defendant. *See* 8 Moore’s Federal Practice § 41.21[1]-[2]; *Loutfy v. R.R. Donnelley & Sons, Co.*, 148 F.R.D. 599, 602 (N.D. Ill. 1993). However, to achieve Cotton’s desired result and in light of her failure to respond to the defendants’ motion to dismiss Counts V to VIII (Doc. 8), the Court will construe her notice as agreement that the motion should be granted. Accordingly, the Court:

- **GRANTS** the defendants’ unopposed motion to dismiss Counts V to VIII (Doc. 8);
- **DISMISSES** Counts V to VIII **with prejudice**; and
- **DIRECTS** the Clerk of Court to enter judgment accordingly at the close of the case.

IT IS SO ORDERED.**DATED: September 30, 2013**

s/J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE