

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

EDWARD HOLMES,

Plaintiff,

v.

Case No. 16-cv-1338-JPG-DGW

CONSTRUCTION TURNAROUND
SERVICES, DON SCHEXNIDER, GRANT
DALTON and AARON MAY,

Defendants.

MEMORANDUM AND ORDER

This matter comes before the Court on plaintiff Edward Holmes' motion to voluntarily dismiss Count IV, the only count against defendant Aaron May, without prejudice (Doc. 46). The Court construes the motion as a notice of dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). Rule 41(a)(1)(A)(i) allows a plaintiff to dismiss an action without a court order at any time before the opposing party serves an answer or a motion for summary judgment. May has not served an answer or motion for summary judgment in this case. Because the plaintiff has an absolute right to dismiss Count IV against May at the present time, the Court finds that Count IV is **DISMISSED without prejudice** and **DIRECTS** the Clerk of Court to enter judgment accordingly at the close of the case. May is terminated as a party to this case. This dismissal further renders **MOOT** May's motion to dismiss (Doc. 6) and motion to stay discovery (Doc. 41).

IT IS SO ORDERED.

DATED: April 24, 2017

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