

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

NATHAN KORTE,

Plaintiff,

v.

Case No. 17-cv-912-JPG-RJD

CHARLES MACHINE WORKS, INC. d/b/a
Ditch Witch, ANVIL LAND AND
PROPERTIES, INC. d/b/a Ditch Witch
International, DITCH WITCH SALES, INC.,
COLL, LLC d/b/a Ditch Witch II, LLC, and
DITCH WITCH OF ILLINOIS, INC.,

Defendant.

MEMORANDUM AND ORDER

This matter comes before the Court on the joint voluntary dismissal without prejudice (Doc. 12), which the Court construes as a notice of dismissal of defendant Ditch Witch of Illinois, Inc. 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. Defendant Ditch Witch of Illinois, Inc. has not served an answer or motion for summary judgment in this case. Because the plaintiff has an absolute right to dismiss his claims against Ditch Witch of Illinois, Inc. at the present time (Count IX and X), the Court finds that those claims are **DISMISSED without prejudice**. Ditch Witch of Illinois, Inc. is terminated as a party in this case.

The Court has also received notice of the settlement of the plaintiff's claims against all other defendants in the case: The Charles Machine Works, Inc. d/b/a Ditch Witch, Anvil Land and Properties, Inc., d/b/a Ditch Witch International, Inc., Ditch Witch Sales, Inc., and Coll LLC, d/b/a Ditch Witch II, LLC (Doc. 24). Having been advised by counsel for the defendants that

these claims have been settled but that additional time is needed to consummate the settlement, the Court **DIRECTS** the Clerk of Court to enter judgment of dismissal for those claims with prejudice and without costs 60 days from the date of this order. Should the parties fail to consummate settlement within 60 days, they may petition the Court to delay entry of judgment until a later date. In light of the settlement, the Court **DENIES** all motions pending in this case **as moot** and **VACATES** all court dates in this case.

IT IS SO ORDERED.

DATED: October 3, 2017

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