

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

JAKE KOBOLD and HICKORY)	
KNOLL FARMS, INC.,)	
)	
Plaintiffs,)	
)	
v.)	No. 3:04 CV 726
)	
AMERICAN GROWERS)	
INSURANCE CORP. and)	
HAROLD A. CLARK,)	
)	
Defendants.)	

ORDER

Plaintiffs Jake Kobold and Hickory Knoll Farms, Inc., filed a complaint against defendants American Growers Insurance Corporation and Harold A. Clark in November 2004. Since then, this case has been stayed (DE # 13), and defendant American Growers Insurance Corporation has ceased to exist (DE # 17.).

On January 31, 2008, plaintiffs indicated to the magistrate judge that they intended to file documents dismissing this case (DE # 20), but they never did so. After waiting for nearly six months, the magistrate judge issued an order directing plaintiffs to file their documents voluntarily dismissing the case, or it would dismiss the case sua sponte based on plaintiffs' failure to prosecute. (DE # 41.) Plaintiffs failed to respond in any way, so the court issued a report and recommendation recommending that this case be dismissed without prejudice pursuant to FEDERAL RULE OF CIVIL PROCEDURE 41. (DE # 42.)

Having reviewed the magistrate judge's report and recommendation, and having received no objections or any other filings from either party, this court agrees with the prior determination. The report and recommendation (DE # 42) is **ACCEPTED**. This case is **DISMISSED WITHOUT PREJUDICE**, pursuant to FEDERAL RULE OF CIVIL PROCEDURE 41(b). The outstanding motion to dismiss (DE # 7) is **DENIED AS MOOT**.

SO ORDERED.

DATED: February 3, 2009

s/James T. Moody
JUDGE JAMES T. MOODY
UNITED STATES DISTRICT COURT