

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

THIELE DAIRY, LLC, A Nebraska)	
Limited Liability Company,)	
)	
Plaintiff,)	4:08CV3015
)	
V.)	
)	
EARTHSOILS, Inc., a Minnesota)	ORDER
Corporation, and MIKE A.)	
MCCORMACK,)	
)	
Defendants.)	
)	

This matter is before the court on Defendants' motion to dismiss the counterclaim ([filing 68](#)) that they asserted against Plaintiff in this case ([filing 17](#)). I shall grant the motion.

IT IS ORDERED:

1. Defendants' motion to dismiss counterclaim ([filing 68](#)) is granted;
2. Defendants' counterclaim ([filing 17](#)) is dismissed without prejudice;
3. The motion for summary judgment ([filing 53](#)) filed by Plaintiff with regard to Defendants' counterclaim is denied as moot;
4. Final judgment will be withheld until all claims in this matter are resolved.

December 17, 2008.

BY THE COURT:
s/Richard G. Kopf
United States District Judge