

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MARCIA K. HAJEK, Individually)
and as Personal Representative of the)
Estate of Alan E. Hajek, Deceased,)

Plaintiff,)

4:08CV3157

V.)

KUMHO TIRE CO., Inc., a foreign)
corporation, KUMHO TIRE U.S.A.,)
Inc., a California corporation, and)
FORD MOTOR COMPANY, a)
Delaware corporation,)

Defendants.)

MEMORANDUM AND ORDER

This matter is before the court on Plaintiff’s renewed motion to dismiss Defendant Ford Motor Company ([filing 95](#)). The motion shall be granted.

On May 8, 2009, Plaintiff filed a motion to dismiss Defendant Ford Motor Company (“Ford”) ([filing 73](#)) on the ground that Plaintiff’s investigation revealed insufficient evidence upon which to maintain a claim against Ford. Defendants Kumho Tire Co., Inc. and Kumho Tire U.S.A., Inc. (collectively referred to herein as the “Kumho Defendants”) opposed the motion, contending that they were entitled to keep Ford in the action for purposes of allocation of percentages of negligence and apportionment of non-economic damages ([filing 75](#).) The Kumho Defendants represented, however, that they would have no objection to the dismissal of Ford if, after being given a reasonable amount of time to assess the evidentiary and legal basis for filing a cross-claim, they did not file a cross-claim against Ford. (*Id.*)

On June 23, 2009, the court issued an order ([filing 81](#)) denying Plaintiff's motion to dismiss. The order required the Kumho Defendants to file any cross-claim against Ford by July 23, 2009. (*Id.*) The court's order states that if the Kumho Defendants failed to file such a cross-claim by that date, this action would be dismissed without prejudice as to Ford. (*Id.*)

To date, the Kumho Defendants have not filed a cross-claim against Ford in this action. Therefore, in accordance with the prior order of the court ([filing 81](#)),

IT IS ORDERED:

1. Defendant Ford Motor Company is dismissed from this action without prejudice;
2. Kumho Tire Co., Inc. and Kumho Tire U.S.A., Inc. are the only remaining defendants in this action.
3. The Clerk of the United States District Court for the District of Nebraska shall adjust the court's computerized record-keeping system to reflect the dismissal of Ford Motor Company from this action.

August 13, 2009.

BY THE COURT:

Richard G. Kopf

United States District Judge