

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LORINDA BROWN,)	
)	
Plaintiff,)	4:09CV3066
)	
V.)	
)	
FRIEDMAN FAMILY LIMITED)	MEMORANDUM AND ORDER
PARTNERSHIP, A NEBRASKA)	
LIMITED PARTNERSHIP, BNS)	
PROPERTY I, LLC, A NEBRASKA)	
LIMITED LIABILITY COMPANY,)	
)	
Defendants.)	

The plaintiff has filed a notice voluntarily dismissing defendant Friedman Family Limited Partnership, (filing no. [25](#)), and has filed a second amended complaint adding a new defendant, Sortino Asset Management Company, LLC, a Nebraska Limited Liability Company, (filing no. [23](#)).

Friedman Family Limited Partnership has not filed an answer or a motion for summary judgment, and therefore plaintiff’s notice of dismissal serves to voluntarily dismiss this defendant without the need for a court order. Fed. R. Civ. P. 41(a)(1(A)(i).

However, the plaintiff did not seek leave to file a second amended complaint or to add a party as required under Rules 15(a)(2) and 21 of the Federal Rules of Civil Procedure. Therefore, the plaintiff’s second amended complaint was improperly filed. Accordingly,

IT IS ORDERED:

- 1) Defendant, Friedman Family Limited Partnership is dismissed pursuant to the plaintiff's notice of voluntary dismissal.
- 2) The plaintiff's second amended complaint, (filing no. [23](#)), is stricken without prejudice to re-filing with leave of the court upon a properly filed motion.
- 3) The clerk shall not issue a summons for service upon Sortino Asset Management Company, LLC, a Nebraska Limited Liability Company, as requested by the plaintiff, (filing no. [24](#)), unless and until the court grants the plaintiff leave to amend her complaint to add this defendant.

DATED this 21st day of August, 2009.

BY THE COURT:

Richard G. Kopf
United States District Judge