

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

IMPERIAL BEEF, LLC, a Nebraska limited liability company;

Plaintiff,

vs.

JOHN BOEHS and CHARLENE BOEHS, husband and wife; STATE OF NEBRASKA; THOUVENEL HARVESTING, LLC, a Montana Limited liability company; CHAD LUNDEEN; VALLEY BANK AND TRUST COMPANY, a bank incorporated by the laws of the State of Nebraska; WYOMING STATE BANK, a Wyoming corporation; and TRUSTEE ATTEBERY FAMILY TRUST,

Defendants.

4:18CV3053

ORDER

This matter is before the Court on its own motion. This is an interpleader action that was removed from state court. The record shows that defendant Thouvenel Harvesting, LLC (“Thouvenel”) has not been properly served with the Complaint. [Filing No. 1-1](#), Ex. A, State Court Filings. Further, the plaintiff and remaining defendants have shown that Thouvenel no longer claims an interest in the property that is the subject of this action. [Filing No. 34](#), Stipulation, Ex. A, Termination of Lien. The plaintiff agrees that Thouvenel should be dismissed as a party defendant. *Id.*, Stipulation at 2.

Under [Federal Rule of Civil Procedure 4\(m\)](#), “[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” [Fed. R. Civ. P. 4](#). It therefore appears that

defendant Thouvenal Harvesting, LLC should be dismissed as a party to this case under [Fed. R. Civ. P. \(4\)\(m\)](#) and pursuant to the Stipulation of the parties. Accordingly,

IT IS ORDERED THAT:

1. Defendant Thouvenal Harvesting, LLC dismissed as a party to this action.

Dated this 19th day of October 2018.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge