

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DAVE BARRETT and CLEAN HARBORS)
ENVIRONMENTAL SERVICES, INC.,)
)
Plaintiffs,)
)
vs.)
)
RHODIA, INC.,)
)
Defendant.)

7:07CV5014

ORDER

This matter is before the court on the Dave Barrett’s Motion to Dismiss First Cause of Action ([Filing No. 63](#)). Mr. Barrett seeks to voluntarily dismiss his negligence claim, his first cause of action, but to retain his cause of action for strict liability for trial. *Id.* No other party filed an objection to Mr. Barrett’s motion. The motion does not state whether the dismissal should be with or without prejudice. In all other respects, the court finds the plaintiff’s motion should be granted in accordance with [Fed. R. Civ. P. 41\(a\)\(2\)](#). Upon consideration,

IT IS ORDERED:

1. Dave Barrett’s Motion to Dismiss First Cause of Action ([Filing No. 63](#)) is granted.
2. Dave Barrett’s First Cause of Action based on negligence is dismissed without prejudice.

DATED this 18th day of December, 2008.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge