

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

PLAINSMEN ENERGY, INC.,)
Plaintiff,)
v.) Case No. CIV-20-225-C
SK NEMAHA, LLC,)
Defendant.)

MEMORANDUM OPINION AND ORDER

Plaintiff has filed a Motion for Voluntary Dismissal pursuant to Fed. R. Civ. P. 41(a)(2). In that Motion, counsel for Plaintiff notes they recently discovered that Plaintiff had assigned its rights in the subject well and the right to pursue this action prior to the date this lawsuit was filed. Plaintiff correctly states it cannot pursue this action. Defendant objects to the request for dismissal, arguing that Plaintiff and counsel knew of the assignment long ago and that any dismissal should be with prejudice.

After considering the argument of the parties, the Court finds that dismissal with prejudice is inappropriate at this time. Plaintiff's conduct, while indefensible, did not prejudice Defendant to the extent necessary to warrant dismissal pursuant to Ehrenhaus v. Reynolds, 965 F.2d 916, 918 (10th Cir. 1992). Additionally, the Court finds that lesser sanction is sufficient to address Plaintiff's wrongdoing. As Defendant notes, it has been forced to expend costs and fees in an action that should never have been filed by the present party. Accordingly, the Court finds that dismissal of Plaintiff's case must occur with conditions. See Fed. R. Civ. P. 41(a)(2). Those conditions are that if Plaintiff refiles this

action or any other action seeking to recover for the harm alleged herein, it must first pay the costs and attorneys' fees incurred by Defendant in this case.

As set forth more fully herein, Plaintiff Plainsmen Energy, Inc.'s Motion for Voluntary Dismissal (Dkt. No. 26) is DENIED. Rather, this matter is DISMISSED without prejudice by the Court and subject to the conditions outlined herein.

IT IS SO ORDERED this 26th day of May 2021.



ROBIN J. CAUTHRON
United States District Judge