

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,

Plaintiff,

v. // CIVIL ACTION NO. 1:13CV205  
(Judge Keeley)

MICHAEL S. COTTRELL,

Defendant.

AMENDED<sup>1</sup> MEMORANDUM OPINION AND ORDER GRANTING  
PLAINTIFF'S MOTION TO DISMISS [DKT. NO. 10]

Pending before the Court is the plaintiff's, State Farm Mutual Automobile Insurance Company ("State Farm"), unopposed motion to dismiss pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure. (Dkt. No. 10). For the reasons that follow, the Court **GRANTS** State Farm's motion.

**I. FACTUAL AND PROCEDURAL BACKGROUND**

This case arises from an ATV accident that occurred on December 11, 2011. On that day, Kenneth Neel ("Neel") drove the ATV he was operating off a public county road and onto the defendant's, Michael S. Cottrell ("Cottrell"), property. Neel proceeded to hit Cottrell with his ATV, causing severe injuries to Cottrell.

On March 27, 2013, Cottrell sued Neel in the Circuit Court of Marion County, West Virginia, seeking damages for the injuries he

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<sup>1</sup>The purpose of this amended order is to clarify that the state court granted summary judgment in favor of Cottrell.

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suffered as a result of the accident. State Farm, Cottrell's automobile insurance provider, subsequently filed an answer to Cottrell's complaint pursuant to West Virginia Code § 33-6-31, indicating that Cottrell's uninsured motorist coverage does not include protection for accidents caused by off road vehicles.

State Farm subsequently filed this declaratory judgment action on September 12, 2013, seeking a declaration that it is not obligated to provide any insurance coverage for the claims asserted by Cottrell in his pending state court action. (Dkt. No. 1). After the instant action was initiated, however, the Circuit Court of Marion County granted Cottrell's motion for summary judgment, which resolved the entire controversy between State Farm and Cottrell. State Farm therefore filed the pending motion to dismiss on August 14, 2013, arguing that the state court's decision renders this case moot.

**II. STANDARD OF REVIEW**

Rule 41(a)(2) of the Federal Rules of Civil Procedure allows a plaintiff, with the Court's permission and subject to the terms the Court deems proper, to dismiss an action without prejudice at any time. The purpose of this rule is "freely to allow voluntary dismissals unless the parties will be unfairly prejudiced." Davis

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v. USX Corp., 819 F.2d 1270, 1273 (4th Cir. 1987). District courts have discretion to decide whether a motion for voluntary dismissal should be granted. Id. In deciding such a motion, the district court must "focus primarily on protecting the interests of the defendants" and preventing the defendants from suffering from plain legal prejudice. Id.

**III. DISCUSSION**

The state court's order granting State Farm's motion for summary judgment resolved the entire controversy between State Farm and Cottrell. Cottrell therefore has no potential claims for reimbursement against State Farm, and this case is now moot. Thus, the Court finds that dismissing this case would not burden or prejudice Cottrell in any way.

**IV. CONCLUSION**

For the reasons discussed, the Court:

- 1) **GRANTS** State Farm's motion to dismiss (dkt. no. 10);
- 2) **DENIES AS MOOT** State Farm's motion for summary judgment (dkt. no. 9);
- 3) **DISMISSES WITH PREJUDICE** State Farm's complaint (dkt. no. 1);

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- 4) **DENIES AS MOOT** State Farm's motion requesting factual correction (dkt. no. 13); and
- 4) **DIRECTS** the Clerk to remove this case from its active docket.

It is **SO ORDERED**.

Pursuant to Fed. R. Civ. P. 58, the Court **DIRECTS** the Clerk of the Court to enter a separate judgment order and to transmit copies of both Orders to counsel of record.

DATED: August 8, 2014.

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE