

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

GARRISON SOUTHFIELD PARK LLC,
Plaintiff,

v.

CLOSED LOOP REFINING AND
RECOVERY, INC., *et al.*,
Defendants.

Case No. 2:17-cv-783-EAS-EPD

JUDGE EDMUND A. SARGUS, JR.

MAGISTRATE JUDGE
ELIZABETH PRESTON DEAVERS

OLYMBEC USA LLC,
Plaintiff,

v.

CLOSED LOOP REFINING AND
RECOVERY, INC., *et al.*,
Defendants.

Case No. 2:19-cv-1041-EAS-EPD

JUDGE EDMUND A. SARGUS, JR.

MAGISTRATE JUDGE
ELIZABETH PRESTON DEAVERS

**UNOPPOSED MOTION OF PLAINTIFF GARRISON SOUTHFIELD PARK LLC
AND PLAINTIFF OLYMBEC USA LLC FOR DISMISSAL OF DEFENDANTS
ROBERT E. ERIE AND E-WORLD RECYCLERS, LLC A.K.A. E-WORLD ONLINE,
LLC PURSUANT TO RULE 21 OF THE FEDERAL RULES OF CIVIL PROCEDURE**

Pursuant to Rule 21 of the Federal Rules of Civil Procedure, Plaintiff Garrison Southfield Park LLC (“Garrison”) and Plaintiff Olymbec USA LLC (“Olymbec,” along with Garrison referred to as the “Plaintiffs”), by and through counsel, submit this Motion to Dismiss Defendants Robert E. Erie (“Erie”) and E-World Recyclers, LLC a.k.a. E-World Online, LLC (“E-World”), without prejudice, for the reasons set forth below. Plaintiffs have consulted with

counsel for all existing Defendants that have entered an appearance in this litigation, and none of them object to this Motion.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

Rule 21 of the Federal Rules of Civil Procedure provides that “[o]n motion or on its own, the court may at any time, on just terms, add or drop a party.” According to the Sixth Circuit, Rule 21 is the proper vehicle by which a party may seek dismissal of its claim or claims against fewer than all parties in a multi-party action. *Letherer v. Alger Grp, L.L.C.*, 328 F.3d 262, 266 (6th Cir. 2003) (quoting *Philip Carey Mfg. Co. v. Taylor*, 286 F.2d 782, 785 (6th Cir. 1961)), *rev’d on other grounds, Blackburn v. Oaktree Capital Mgmt., LLC*, 511 F.3d 633 (6th Cir. 2008):

. . . Rule 41(a)(1) provides for the voluntary dismissal of an ‘action’ not a ‘claim’; the word ‘action’ as used in the Rules denotes the entire controversy, whereas ‘claim’ refers to what has traditionally been termed ‘cause of action.’ Rule 21 provides that ‘Parties may be dropped or added by order of the court on motion * * *’ and we think that this rule is the one under which any action to eliminate . . . a party should be taken.

See Murray Energy Corp. v. Cassidy, Cogan, Chappell, and Voegelin, L.C., et al., 2:18-cv-440, 2020 WL 4201666, at *1 (S.D. Ohio July 22, 2020) (Sargus, J.) (“The correct procedural vehicle for removing less than all parties or claims from an action is Federal Rule of Civil Procedure 21.”); *see also Lester v. Wow Car Co., Ltd.*, No. 2:11-cv-850, 2012 WL 1758019, at *2 n.2 (S.D. Ohio May 16, 2012) (Sargus, J.) (“[T]he Sixth Circuit has suggested that dismissal of an individual party, as opposed to an entire action, is properly conducted pursuant to Rule 21, not Rule 41.”).

Plaintiffs asserted claims against Defendants Erie and E-World pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9607, and Ohio common law, for past and projected response costs to clean up cathode ray tubes and other electronic wastes at the two warehouses formerly owned by Garrison at 1655 and 1675 Watkins Road in Columbus, Ohio and at Olymbec’s warehouse located at 2200 Fairwood Avenue in Columbus, Ohio.

Based on further review and on consultation with Defendant Erie, who served as the Chief Executive Officer of Defendant E-World at all times relevant to this litigation, Plaintiffs have no reason to believe that Defendants Erie or E-World have sufficient assets to warrant further pursuit of claims against them. California Secretary of State records indicate that the limited liability company status of E-World Recyclers, LLC is “suspended” and that of E-World Online, LLC is “terminated.” As a result, Plaintiffs no longer seek any relief from Defendants Erie and E-World and request this Court dismiss them without prejudice.

In applying Rule 21, courts must consider prejudice to the nonmoving party. In this case, all existing Defendants that have entered an appearance in this litigation have been consulted, and there has been no objection to this Motion.

CONCLUSION

For the reasons above, the Plaintiffs request that Defendants Erie and E-World be dismissed from these actions without prejudice pursuant to Rule 21. For the Court's convenience, a proposed order has been attached hereto.

Dated: December 9, 2022

Respectfully submitted,

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*Attorneys for Plaintiff Garrison
Southfield Park LLC*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on December 9, 2022, a copy of the foregoing *Unopposed Motion of Plaintiff Garrison Southfield Park LLC and Plaintiff Olymbec USA LLC for Dismissal of Defendants Robert E. Erie and E-World Recyclers, LLC a.k.a. E-World Online, LLC Pursuant to Rule 21 of the Federal Rules of Civil Procedure* was filed electronically with the Court's CM/ECF system, which will send notification to all attorneys registered to receive such service. Parties may access this filing through the Court's electronic filing system.

/s/ Jack A. Van Kley
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Trial Attorney

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Case No. 2:19-cv-1041-EAS-EPD

JUDGE EDMUND A. SARGUS, JR.

MAGISTRATE JUDGE
ELIZABETH PRESTON DEAVERS

**ORDER GRANTING UNOPPOSED MOTION OF PLAINTIFF GARRISON
SOUTHFIELD PARK LLC AND PLAINTIFF OLYMBEC USA LLC FOR
DISMISSAL OF DEFENDANTS ROBERT E. ERIE AND E-WORLD
RECYCLERS, LLC A.K.A. E-WORLD ONLINE, LLC PURSUANT
TO RULE 21 OF THE FEDERAL RULES OF CIVIL PROCEDURE**

For good cause shown, the Unopposed Motion of Plaintiff Garrison Southfield Park LLC and Plaintiff Olymbec USA LLC for Dismissal of Defendants Robert E. Erie and E-World Recyclers, LLC a.k.a. E-World Online, LLC pursuant to Rule 21 of the Federal Rules of Civil Procedure is hereby granted. Defendants Robert E. Erie and E-World Recyclers, LLC a.k.a. E-World Online, LLC are dismissed from this action, without prejudice.

SO ORDERED.

Dated: _____

UNITED STATES DISTRICT JUDGE