

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

SHIRLEY FAYE MILLER, etc.,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:10cv583-WHA-WC
)	(WO)
CORRECTIONAL MEDICAL SERVICES,)	
INC. et al.,)	
)	
Defendants.)	

MEMORANDUM OPINION AND ORDER

In this case, Plaintiff brings a state law (Count I) and a federal law (Count II) claim against Defendants. On September 16, 2010, this court entered an order dismissing Plaintiff’s federal law claim without prejudice, and giving Plaintiff until September 30, 2010 to file an Amended Complaint to cure pleading deficiencies with respect to the federal claim. Plaintiff has not filed an Amended Complaint, and accordingly, Plaintiff’s federal law claim is due to be DISMISSED with prejudice.

Significantly, Plaintiff’s state law claim is before the court on the basis of supplemental jurisdiction. *See* 28 U.S.C. § 1367. However, because Plaintiff’s federal law claim is due to be dismissed with prejudice, the court declines to exercise supplemental jurisdiction over the state law claim, pursuant to 28 U.S.C. § 1367(c)(3). *See Mergens v. Dreyfoos*, 166 F.3d 1114, 1119 (11th Cir. 1999) (noting that in the Eleventh Circuit courts are encouraged to dismiss state law claims if the federal claims are dismissed prior to trial).

For the foregoing reasons, it is hereby ORDERED as follows:

1. Plaintiff's federal law claim (Count II) is DISMISSED with prejudice;
2. This case is remanded to the Circuit Court for Montgomery County, Alabama, and the clerk is directed to take appropriate steps to effect the remand;
3. The Motion to Dismiss as to the state law claim (Count I) is left for resolution by the state court.

Done this 13th day of October, 2010.

/s/ W. Harold Albritton
W. HAROLD ALBRITTON
SENIOR UNITED STATES DISTRICT JUDGE