

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

BRANCH BANKING AND TRUST	:	
COMPANY,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	CA 11-0168-KD-C
	:	
IMAGINE CBQ, LLC, et al.,	:	
	:	
Defendants.	:	

**ORDER**

On October 11, 2011, defendants Imagine CBQ, LLC, Imagine Enterprises, LLC, Frances W. Hopkins, Joseph Overton, and Bonnie L. Reiman filed a motion to dismiss plaintiff's complaint for lack of subject matter jurisdiction since the complaint only contained allegations regarding the residency of various defendants, not their citizenship. (*See* Doc. 31.) One day later, these defendants amended their motion to dismiss to apprise this Court that they did not object to "plaintiff amending its complaint to properly secure the jurisdiction of this Court." (Doc. 32.)

On October 14, 2011, plaintiff filed an unopposed motion for leave to amend its complaint and thereby correct its pleading to allege the citizenship of all the defendants, as opposed to their residences. (*See* Doc. 36.) The undersigned entered a submission order regarding this particular motion to dismiss on October 17, 2011 (Doc. 38); plaintiff was given until October 26, 2011 to file a response and the moving defendants until

November 3, 2011 to file their reply (*id.*). Plaintiff filed a response that same date and directed the Court to its unopposed motion for leave to amend the complaint as its response to the pending motion to dismiss. (Doc. 39.) The moving defendants did not file a reply. (*See* Docket Sheet.)

In light of the foregoing, the undersigned **MOOTS** the moving defendants' motion to dismiss (Doc. 31), as amended (Doc. 32), without prejudice to the ability of these defendants to re-file same should United States District Judge Kristi K. DuBose deny plaintiff's unopposed motion for leave to amend its complaint (Doc. 36).

**DONE** and **ORDERED** this the 7th day of November, 2011.

s/WILLIAM E. CASSADY  
**UNITED STATES MAGISTRATE JUDGE**