

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION**

GENIE HARRELL

PLAINTIFF

v.

No. 1:12-cv-20-DPM

**INDEPENDENCE COUNTY, ARKANSAS;
INDEPENDENCE COUNTY ASSESSOR'S OFFICE;
ODUS FULMER, Tax Assessor for Independence
County, Arkansas, Individually and in his Official
Capacity; and GREG POTTS, Supervisor,
Independence County, Arkansas Tax Assessor's Office,
Individually and in his Official Capacity**

DEFENDANTS

ORDER

Genie Harrell worked for the Independence County Assessor. She has sued a number of parties for allegedly discriminating against her. In response to a motion to dismiss, the parties have wooled around whether the "Independence County Assessor's Office" is a proper defendant.

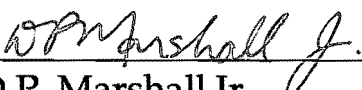
It is now common ground that Harrell does not want to sue the physical structure of the Assessor's Office and cannot do so. The defendants also continue to insist that the Assessor is not a proper party. They're wrong. The Assessor is an office established by the Arkansas Constitution. ARK. CONST. art. 7, § 46. And the Court has no doubt that the Independence County

Assessor can sue and be sued. *E.g., May v. Akers-Lang*, 2012 Ark. 7, ___ S.W.3d ___. But the defendants are correct that the Assessor's Office does not need to be a separate defendant in this case. This is so because, out of an abundance of caution, Harrell has also sued Odus Fulmer in his official capacity as the Assessor. And Fulmer, of course, is Independence County in his official capacity as the Assessor.

Where does that leave things? The motion to dismiss is granted. Independence County Assessor's Office is dismissed as a party. Odus Fulmer, in his official capacity as the Assessor, remains in the case – although this is duplicative because the County is also a party. But it does no harm to leave them both in at this point, even though in the eyes of the law they are one for purposes of Harrell's suit.

Motion to dismiss, *Document No. 7*, granted; motion to amend, *Document No. 9*, denied.

So Ordered.


D.P. Marshall Jr.
United States District Judge

