

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

KATHY LYNETTE MILES

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Plaintiff

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VS.

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NO: 4:08CV02801 SWW

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BG EXCELSIOR LIMITED
PARTNERSHIP D/B/A THE
PEABODY LITTLE ROCK, ET AL.

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Defendants

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ORDER

On July 2, 2010, the Court granted the parties’ “Joint Motion to Continue Bench Trial,” and continued the bench trial previously set for September 20, 2010. In the course of setting a new trial date, it has come to the Court’s attention that Plaintiff included a jury demand in her amended complaint, though her original pleading contains no jury demand. Because the amended complaint appears to raise the same issues set forth in the original complaint, it appears that Plaintiff has waived her right to a jury trial. *See First Wisconsin Nat’l Bank v. Klapmeier*, 526 F.3d 77 79-80 (8th Cir. 1975)(finding no waiver of jury right where amended claim of fraud in the inducement “substantially differed” from claims contained in prior pleading based on indebtedness and defamation).

Given these circumstances, IT IS HEREBY ORDERED that Plaintiff is directed to file notice within ten days from the entry date of this order stating whether she demands a jury trial

and, if so, the basis for her demand.

IT IS SO ORDERED THIS 7th DAY OF JULY, 2010.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE