

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

JUNE ELLIOTT

PLAINTIFF

v.

CASE NO. 4:11CV00537 BSM

**PULASKI COUNTY SPECIAL
SCHOOL DISTRICT and CHARLES HOPSON**

DEFENDANTS

ORDER

Plaintiff June Elliott moves for remand [Doc. No. 5] and to amend the complaint [Doc. No. 11], and defendant Charles Hopson moves to substitute counsel [Doc. No. 9]. The motion to remand is granted and no action is taken on the motions to amend and for substitution of counsel because this court lacks jurisdiction to act on those motions.

On June 9, 2011, Elliot filed a complaint in state court alleging sex discrimination under the Arkansas Civil Rights Act of 1993 (ACRA) and retaliation under the ACRA and Arkansas Whistleblower Protection Act. [Doc. No. 2]. Based on a single reference to 42 U.S.C. § 1983 in Elliott's prayer for relief, defendants removed the case to federal court. [Doc. No. 1].

Elliott now moves to amend the complaint to add claims for illegal exaction, constructive discharge, and intimidation pursuant to the ACRA and to strike the language in the complaint referring to 42 U.S.C. § 1983 [Doc. No. 11] and to remand because the reference to 42 U.S.C. § 1983 in the prayer for relief was a typographical error [Doc. No. 5]. Defendants object asserting that a federal question exists.

Elliott's motion for remand is granted because no federal question exists. To establish federal question subject matter jurisdiction, Elliott's claim must arise under the Constitution, laws or treaties of the United States. 28 U.S.C. § 1331. If at any time before a final judgment, it appears that subject matter jurisdiction is lacking, the case shall be remanded. 28 U.S.C. § 1447(c). Furthermore, all doubts are to be resolved in favor of remand. *Dahl v. R.J. Reynolds Tobacco Co.*, 478 F.3d 965, 968 (8th Cir. 2007). It is clear that Elliott's inclusion of the reference to 42 U.S.C. § 1983 was a typographical error and she intended to bring this claim under the ACRA.

Accordingly, this case is remanded back to the state court and no action is taken on the motions to amend [Doc. No. 11] and for substitution of counsel [Doc. No. 9] because this court lacks jurisdiction..

IT IS SO ORDERED this 8th day of September 2011.


UNITED STATES DISTRICT JUDGE