

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

LINDA SUE ALEXANDER

PLAINTIFF

v.

Case No. 4:19-cv-00700-LPR

STRYKER CORP, *et al.*

DEFENDANTS

ORDER

On October 13, 2020, Separate Defendant Argen Corporation (“Argen”) filed a Motion to Dismiss the claims against it in this case. (Doc. 46). Argen is named in the operative complaint as the successor-in-interest to J.F. Jelenko & Co. (“Jelenko”). (Doc. 37 ¶ 7). Argen argues that the complaint is devoid of any factual allegations that would establish that Argen is Jelenko’s successor-in-interest. (Doc. 46 ¶ 3). Argen further argues that no such facts exist because Argen is not Jelenko’s successor-in-interest.¹ Argen therefore contends that dismissal is proper under Federal Rule of Civil Procedure 12(b)(6) because the complaint fails to state a claim against Argen. On November 13, 2020, Plaintiff Linda Sue Alexander filed a short and untimely Response to Argen’s Motion. (Doc. 49). Ms. Alexander states that she “does not object to Defendant Argen Corporation’s Motion to Dismiss.” (*Id.* ¶ 3). Given all of the foregoing, the Court GRANTS Separate Defendant Argen Corporation’s Motion to Dismiss without prejudice.² Separate Defendant Argen Corporation is dismissed from this case.

¹ (*Id.*). Argen attached to its Motion “the declaration of Paul Cascone, Senior Vice President of Argen.” (Doc. 46 ¶ 5). The Court did not consider the attachment in making its ruling. *See* FED. R. CIV. P. 12(d).

² Neither Argen nor Ms. Alexander expressly stated whether the dismissal should be with prejudice or without prejudice. The Court orders dismissal without prejudice to account for the theoretical possibility that later-discovered facts could establish that Argen is Jelenko’s successor-in-interest.

IT IS SO ORDERED this 18th day of November 2020.

A handwritten signature in black ink, appearing to read 'Lee P. Rudofsky', is written over a horizontal line.

LEE P. RUDOFSKY
UNITED STATES DISTRICT COURT JUDGE