

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

MILDRED P. ALEXANDER

PLAINTIFF

v.

Case No. 2:11-CV-2247

SPARKS REGIONAL MEDICAL CENTER
also known as SPARKS HEALTH SYSTEMS

DEFENDANT

ORDER

This Court entered an Order dated June 22, 2012 (Doc. 16) in which it denied Defendant's Motions to Dismiss, but ordered Plaintiff to file an Amended Complaint, on or before July 2, 2012.

In its Order, the Court found, in reviewing Plaintiff's Second Amended Complaint (Doc. 13), that "although Plaintiff's claims are largely conclusory, because they are in line with the standards set forth in Form 11 as it currently stands, the Court finds that Plaintiff's Second Amended Complaint satisfies the notice pleading standard set forth by Federal Rule of Civil Procedure 8(a)(2), and Defendant's Motion to Dismiss on the grounds of failure to state a claim should be denied." (Doc. 16).

The Court went on, however, to raise *sua sponte* the issue of Plaintiff's failure to properly allege diversity jurisdiction. The Court clearly set forth two deficiencies that required amendment by Plaintiff in order for this Court to exercise jurisdiction. "First . . . the pleading does not satisfy the statutory requirement that 'the matter in controversy exceeds the sum or value of \$75,000, *exclusive of interest and costs . . .*'" 28 U.S.C. § 1332 (a) (emphasis added)." *Id.* "Second, Plaintiff fails to properly allege the citizenship of the corporate Defendant." *Id.* The Court set forth certain rules for alleging the citizenship of a corporate defendant, and stated that Plaintiff's Complaint was deficient

in that it neither alleged what kind of business entity Defendant was NOR properly alleged the citizenship of Defendant, instead alleging merely that Defendant “ is a business entity located in Fort Smith, Sebastian County, Arkansas.” (Doc. 13, para. 2). Therefore, although the Court found Plaintiff’s pleading of negligence to be sufficient, the Court found that Plaintiff’s Complaint was nevertheless deficient in that it failed to adequately plead diversity jurisdiction.

Plaintiff filed a Third Amended Complaint (Doc. 17) on June 28, 2012. In that amended complaint, Plaintiff, inexplicably, amended her negligence claim to add more detail, but left her allegations regarding the citizenship of Defendant and the amount in controversy unchanged. Therefore, because Plaintiff’s Third Amended Complaint fails to properly and adequately allege diversity jurisdiction, the Court ORDERS that Plaintiff’s Complaint and all amendments thereto be DISMISSED WITHOUT PREJUDICE for lack of subject matter jurisdiction.

IT IS SO ORDERED this 3rd day of July, 2012.

/s/ P. K. Holmes, III
P.K. HOLMES, III
CHIEF U.S. DISTRICT JUDGE