

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge William J. Martínez**

Civil Action No. 11-cv-02160-WJM-MJW

FRANK LLOYD JACQUES, JR.,

Plaintiff,

v.

MUDDY VALLEY RANCH, LLC,
KIMMI LEWIS, and
MARTY CANTENBERRY,

Defendants.

ORDER DISMISSING ACTION WITHOUT PREJUDICE

This matter is before the Court on Defendants Kimmi Lewis and Martin Canterbury's Amended Motion to Dismiss for Lack of Jurisdiction, filed on January 6, 2012. (ECF No. 13.) Plaintiff filed the action in this Court based on diversity jurisdiction under 28 U.S.C. § 1332. (ECF No. 1, ¶ 25.) In the Amended Motion, Defendants argue that the action should be dismissed because there is no diversity of citizenship between the parties. (ECF No. 13.) On January 23, 2012, Plaintiff filed a Response to the Amended Motion, in which he states, "Plaintiff has decided not to contest the motion to dismiss filed for lack of diversity jurisdiction. Plaintiff's intention is on filing this matter in state court and asks this matter be dismissed without prejudice." (ECF No. 16, at 2.)

Because Plaintiff does not contest Defendants' Amended Motion to Dismiss, the Court shall dismiss this action without prejudice. See *Hollander v. Sandoz Pharms. Corp.*, 289 F.3d 1193, 1216-17 (10th Cir. 2002) (dismissal for lack of personal

jurisdiction should be without prejudice, to allow for filing in an appropriate forum).

In accordance with the foregoing, the Court ORDERS as follows:

1. Defendants Kimmi Lewis and Martin Canterbury's Amended Motion to Dismiss for Lack of Jurisdiction (ECF No. 13) is GRANTED as CONFESSED;
2. All other pending motions are DENIED as MOOT, and all current settings, including without limitation the Scheduling Conference scheduled for January 27, 2012 at 10:00 a.m., are VACATED; and
3. This action is DISMISSED WITHOUT PREJUDICE.

Dated this 24th day of January, 2012.

BY THE COURT:



William J. Martinez
United States District Judge