

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JAMES C. PEACOCK,

Plaintiff,

v.

Case No: 2:12-cv-63-Ftm-29DNF

NICOLAS O. CABREO-MUNIZ and D.
STRODAHL, R.N.,

Defendants.

OPINION AND ORDER

This case is before the Court on Defendant Stordahl's motion to dismiss (Doc. 52, filed June 11, 2013). In the motion, Defendant Stordahl notes that the only claims against her are pendent state law claims for medical negligence (Doc. 52 at 1).¹ Defendant argues, *inter alia*, that because Plaintiff did not comply with the pre-suit notice requirements of Florida Statute § 766.106 for filing a medical malpractice claim, Plaintiff has not complied with all conditions precedent to filing suit. Therefore, asserts Defendant Stordahl, Plaintiff's claims against her should be dismissed with prejudice.

Id.

¹ This Court dismissed all Eighth Amendment claims against Defendant Stordahl on May 22, 2013. The Court determined that "While the medical care rendered by Defendant Stordahl may constitute negligence, neither negligence nor gross negligence constitutes deliberate indifference. Consequently, only Plaintiff's pendent State law claims for negligence may proceed against Defendant Stordahl." (Doc. 47 at 15) (internal citations omitted).

Plaintiff filed a response to Defendant Stordahl's motion in which he concedes that he did not comply with the pre-suit requirements of Florida Statute § 766.106 and requests that this Court dismiss his claims against Defendant Stordahl (Doc. 68, filed December 19, 2013).

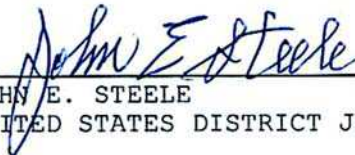
Because Plaintiff requests that Defendant Stordahl be dismissed from this action and because Plaintiff did not comply with Florida's pre-suit requirements, Defendant Stordahl's motion to dismiss is **GRANTED**. See J.B. v. Sacred Heart Hosp. of Pensacola, 635 So. 2d 945 (Fla. 1994) (noting that pre-suit notice must be met in order to maintain a medical malpractice or medical negligence action against a health care provider).

Accordingly, it is hereby **ORDERED AND ADJUDGED**:

1. Defendant Stordahl's motion to dismiss (Doc. 52) is **GRANTED**. All claims against Defendant Stordahl are dismissed with prejudice.

2. The **Clerk of Court** is directed to terminate this defendant and to enter judgment in her favor.

DONE and **ORDERED** in Fort Myers, Florida on this 20th day of December, 2013.



JOHN E. STEELE
UNITED STATES DISTRICT JUDGE

SA: OrLP-4 12/20/13
Copies furnished to:
All parties of record