

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

NEOGENOMICS LABORATORIES,
INC.,

Plaintiff,

v.

Case No: 2:17-cv-54-FtM-29MRM

HEALTH DISCOVERY
CORPORATION,

Defendant.

ORDER

This matter comes before the Court on defendant's Motion to Dismiss Amended Petition (Doc. #16) filed May 15, 2017. Plaintiff filed a Response (Doc. #19) on May 30, 2017.

I.

"A plaintiff seeking the exercise of personal jurisdiction over a nonresident defendant bears the initial burden of alleging in the complaint sufficient facts to make out a prima facie case of jurisdiction." United Techs. Corp. v. Mazer, 556 F.3d 1260, 1274 (11th Cir. 2009) (citing Posner v. Essex Ins. Co., Ltd., 178 F.3d 1209, 1214 (11th Cir.1999)). Defendant asserts that the Amended Petition is due to be dismissed because plaintiff has failed to assert the basis for personal jurisdiction over defendant. (Doc. #16.) The Court agrees. Plaintiff's Amended Petition does not contain any personal jurisdiction allegations to

meet its initial prima facie burden. For this reason, defendant's Motion to Dismiss is granted and plaintiff's Amended Petition is dismissed without prejudice.

Additionally, pursuant to Rule 1.02(c), "[a]ll civil proceedings of any kind shall be instituted in that Division encompassing the county or counties having the greatest nexus with the cause, giving due regard to the place where the claim arose and the residence or principal place of business of the parties." M.D. Fla. R. 1.02(c). A review of plaintiff's Amended Petition (Doc. #10) filed on February 16, 2017, reveals that the only connection with this division is that plaintiff is headquartered in Fort Myers, Florida. Because the parties agreed to arbitrate in Jacksonville, and finding no connection to Fort Myers other than plaintiff's headquarters being in Fort Myers, the Court finds that this case should be transferred to the Jacksonville Division of the Middle District of Florida.

Accordingly, it is hereby

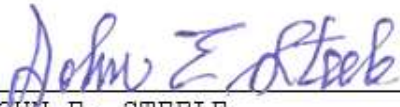
ORDERED:

1. Defendant's Motion to Dismiss Amended Petition (Doc. #16) is **granted** and the Amended Petition (Doc. #10) is **dismissed without prejudice**.
2. The Clerk is directed to transfer this case to the Jacksonville Division of the Middle District of Florida for all further proceedings. The Clerk shall terminate

all deadlines, any pending motions, and close the Fort Myers file.

3. Plaintiff shall have **fourteen (14) days** from the date of transfer to file a Second Amended Complaint.

DONE and ORDERED at Fort Myers, Florida, this 26th day of June, 2017.



JOHN E. STEELE
SENIOR UNITED STATES DISTRICT JUDGE

Copies:
Counsel of Record