

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION**

ANGELA WOODHULL,

Plaintiff,

vs.

CASE NO. 1:08CV151-SPM/AK

SHIRLEY MASCARELLA,

Defendant.

_____ /

REPORT AND RECOMMENDATION

Plaintiff brings this cause against Defendant Shirley Mascarella based on diversity jurisdiction alleging that Plaintiff is a resident of Gainesville, Florida, and Defendant is a resident of Youngstown, Ohio. (Doc. 5). She asserts generally that her damages exceed \$75,000.00. She brings claims of defamation, false light, and intentional infliction of emotional distress based on her allegations that Defendant made slanderous reports to the Department of Children and Families about Plaintiff's treatment of her mother. Plaintiff claims that these acts have caused her "loss of reputation, mental pain and emotional suffering, loss of time and effort, and general damages." (Doc. 5, p. 6).

This case was originally filed in the Middle District of Florida and transferred to this district on July 16, 2008. (Doc. 5). Plaintiff paid the full filing fee and was directed to complete service, (doc. 7), which she did, and Defendant has moved to dismiss this

cause on grounds that the amount of damages sought is too speculative to support jurisdiction and that she has failed to state a claim for relief on all claims asserted.

Plaintiff has responded that she will amend her complaint, if necessary, to provide more facts supporting her claims. (Docs. 11 and 12). She also argues that *pro se* complaints should be held to a less stringent standard and she asks the Court to guide her in stating her claims more sufficiently.

After due consideration, the undersigned is of the opinion that the motion to dismiss (doc. 10) should be denied, but without prejudice to again so move if after amending her complaint, Plaintiff still fails to state a claim for relief. Plaintiff should take as guidance the case law cited by Defendant in her motion as to the elements of the three claims she seeks to pursue and provide facts as necessary to support these elements. Insofar as the jurisdictional amount is concerned, Plaintiff should provide more facts about what Defendant's actions did to cause her damages, but without more details the Court cannot find as a matter of law that she cannot claim to have \$75,000.00 in damages.

It is therefore, **RECOMMENDED** that Defendant's Motion to Dismiss (doc. 10) be **DENIED**, but without prejudice to again so move if an amended pleading fails to correct the deficiencies herein noted. This cause should be remanded to the undersigned for further proceedings to include a deadline for the filing of an amended complaint and entry of a scheduling order.

IN CHAMBERS at Gainesville, Florida, this 3rd Day of December, 2008.

S/ A Kornblum
ALLAN KORNBLUM
UNITED STATES MAGISTRATE JUDGE

NOTICE TO THE PARTIES

A party may file specific, written objections to the proposed findings and recommendations within 15 days after being served with a copy of this report and recommendation. A party may respond to another party's objections within 10 days after being served with a copy thereof. Failure to file specific objections limits the scope of review of proposed factual findings and recommendations.