

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
COLUMBUS DIVISION

MARY R. HIGHTOWER,

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Plaintiff,

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vs.

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CASE NO. 4:12-CV-287 (CDL)

DR. SOYINI FLETCHER and VALLEY \*  
HEALTHCARE SYSTEM, INC.,

\*

Defendants.

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O R D E R

Defendants removed this action to federal court contending that the United States should be substituted as the Defendant and that the action should then be dismissed for lack of subject matter jurisdiction. Defendants have established that Plaintiff's claims must be brought pursuant to the Federal Tort Claims Act ("FTCA"), 28 U.S.C. § 2671 *et seq.* Therefore, the United States is substituted for the Defendants. See 28 U.S.C. § 2679(b)(1) (providing that the United States is the only proper FTCA defendant).

Moreover, the United States has presented evidence that Plaintiff has failed to exhaust her administrative remedies under the FTCA, and Plaintiff has not rebutted that evidence. The FTCA requires a plaintiff to exhaust administrative remedies as a jurisdictional prerequisite to the filing of an action under the FTCA, and the plaintiff bears the burden of proof with

regard to exhaustion. 28 U.S.C. § 2675(a); *Barnett v. Okeechobee Hosp.*, 283 F.3d 1232, 1236-37 (11th Cir. 2002). Accordingly, Defendant's Motion to Dismiss (ECF No. 2) is granted, and this action is dismissed for lack of subject matter jurisdiction.

IT IS SO ORDERED, this 28th day of November, 2012.

S/Clay D. Land

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CLAY D. LAND  
UNITED STATES DISTRICT JUDGE