

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**SIMONE BROWN**

**CIVIL ACTION**

**VERSUS**

**NO: 13-5340**

**VETERANS ADMINISTRATION HOSPITAL**

**SECTION: "H"(5)**

**ORDER AND REASONS**

Before the Court is Defendant's Motion to Dismiss and Substitute (Doc. 7). For the following reasons, the Motion is GRANTED. Defendant Veterans Administration Hospital is DISMISSED and the United States of America is substituted as the proper Defendant in this action.

**BACKGROUND**

Plaintiff filed this action asserting claims of medical malpractice against the Veterans Hospital in New Orleans pursuant to the Federal Tort Claims Act, 28 U.S.C. § 2671, *et seq* ("FTCA").

The United States has appeared and moves this Court to, pursuant to the FTCA and the relevant precedent, dismiss the Veterans Administration Hospital and substitute the United States of America as the sole Defendant. Plaintiff has not opposed the Motion.

### **LAW AND ANALYSIS**

"To sue successfully under the FTCA, a plaintiff must name the United States as the sole defendant." *McGuire v. Turnbo*, 137 F.3d 321, 324 (5th Cir. 1998); *See also Duncan v. Peters*, 190 F.3d 538 (5th Cir. 1999); *Galvin v. Occupational Safety & Health Admin.*, 860 F.2d 181, 183 (5th Cir. 1988) ("It is beyond dispute that the United States, and not the responsible agency or employee, is the proper party defendant in a Federal Tort Claims Act suit."). Plaintiff expressly invokes the FTCA in her complaint. Thus, it is clear that the United States, not the Veterans Administration Hospital, is the proper party to this action. Additionally, because the United States requests that it be substituted in place of the improperly named party, the grant of the instant motion will not prejudice any party.

### **CONCLUSION**

For the foregoing reasons, Defendant's Motion to Dismiss and Substitute is GRANTED. Defendant Veterans Administration Hospital is DISMISSED and the United States of America is substituted as the proper Defendant in this action.

New Orleans, Louisiana, this 13th day of January, 2013.



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**JANE TRICHE MILAZZO**  
**UNITED STATES DISTRICT JUDGE**