

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

EDITH NORRIS

PLAINTIFF

AND

WAL-MART ASSOCIATES AND NATIONAL UNION
FIRE INSURANCE COMPANY OF PITTSBURGH, PA

INTERVENORS

V.

CIVIL ACTION NO. 3:13-CV-00108-SA-SAA

BOTTLING GROUP, LLC, FORMERLY DOING
BUSINESS AS PEPSI COLA GENERAL
BOTTLERS, INC., AND
DIA PHILLIPS, INDIVIDUALLY

DEFENDANTS

ORDER

This cause comes before the Court on Defendants' Motion to Dismiss [33] for lack of subject matter jurisdiction. Plaintiff filed her original Complaint [1] with the Court on April 22, 2013. Thereafter, Plaintiff filed her first Amended Complaint [29] substituting Dia Phillips for the previously named John Doe defendant. Plaintiff's Amended Complaint alleged that both she and Phillips were residents of Shelby County, Tennessee. On that basis, Defendants moved the Court to dismiss Plaintiff's Amended Complaint arguing that complete diversity did not exist among the parties, and thus the Court lacked subject matter jurisdiction.

Prior to the Court's ruling on Defendants' motion, Plaintiff filed a Second Motion for Leave to Amend [35] seeking to correct the pleading of Plaintiff's residency. Plaintiff argued that she is and always has been a resident of Mississippi and that simple error had led to her earlier pleading that she was a resident of Tennessee. Defendants did not oppose Plaintiff's motion and conceded in their response that, based upon the allegations contained therein, the parties are completely diverse. The Court granted the motion, and Plaintiff filed her Second

Amended Complaint [40] on September 17, 2013 alleging that each of the parties was a resident of a different state. Accordingly, the Court finds Defendants' Motion to Dismiss [33] for lack of subject matter jurisdiction is DENIED.

SO ORDERED on this, the 10th day of October, 2013.

/s/ Sharion Aycock
UNITED STATES DISTRICT JUDGE