

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

TAMARA CHAMBERLIN,)	
)	
Plaintiff,)	7:10CV5011
)	
v.)	
)	
CABLE USA, III LLC,)	MEMORANDUM AND ORDER
)	
Defendant.)	
_____)	

The defendant removed this case to federal court from the District Court of Buffalo, County, Nebraska. The removal notice states:

This Court has federal question jurisdiction over the action because Plaintiff alleges sex/pregnancy discrimination and pleads that all administrative prerequisites have been completed and that she was issued a right-to-sue letter dated May 19, 2010, attached as Exhibit A to Plaintiff's Complaint and incorporated by reference therein, which was issued by the federal Equal Employment Opportunity Commission ("EEOC") under Title VII of the Civil Rights Act, [42 U.S.C. 2000e](#) et seq.

Filing No. [1](#), ¶ 3. The plaintiff did not contest removal.

The parties have now filed their Rule 26(f) Report, and it appears the defendant believes subject matter jurisdiction because it lacks the threshold “number of employees” to be subject to federal employment law requirements. Upon review of the plaintiff’s complaint, the court also questions whether jurisdiction is lacking, but for reasons different than those raised by the defendant. Specifically, the complaint alleges the plaintiff was adversely treated and terminated from her employment because she was pregnant. The plaintiff alleges defendant’s discriminatory conduct violated [Neb. Rev. Stat. § 48-1101](#) and Nebraska public policy. The complaint does not mention any federal law basis for recovery.

It therefore appears federal question jurisdiction is lacking.¹ See, [Brocksmitth v. Duncan Aviation, 2010 WL 3342231, 1 \(D. Neb. August 23, 2010\)](#)(Kopf, J., presiding).

Accordingly,

IT IS ORDERED that absent a joint stipulation and/or motion for remand filed prior to October 29, 2010:

- 1) The plaintiff shall file a motion to remand with supporting brief by October 29, 2010.
- 2) The defendant's responsive brief shall be filed within fourteen days thereafter.
- 3) No reply brief shall be filed absent leave of the court for good cause shown.

DATED this 12th day of October, 2010.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge

¹The allegations of the complaint fail to allege a basis for federal diversity jurisdiction.

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