

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Vashalla Camp,)	CASE NO. 1:11 CV 1577
)	
Plaintiff,)	JUDGE PATRICIA A. GAUGHAN
)	
Vs.)	
)	
Northeast Ohio Neighborhood)	<u>Memorandum of Opinion and Order</u>
Health Services, Inc., <i>et al.</i> ,)	
)	
Defendants.)	

INTRODUCTION

This matter is before the Court upon defendant’s Motion to Dismiss (Doc. 4). This is a medical malpractice case. For the reasons that follow, plaintiff’s alternative request to dismiss her case pursuant to Rule 41(a) and pursue administrative remedies is GRANTED. Defendant’s motion to dismiss is therefore MOOT.

DISCUSSION

Plaintiff, Vashalla Camp, filed this lawsuit against defendants, Northeast Ohio Neighborhood Health Services, Inc., NEON Superior Health Center, and several John/Jane Doe Defendants (collectively, “NEON”). Plaintiff alleges that on February 24, 2010, she appeared at

NEON for an appointment. While there, she received an injection intended for a different patient. Thereafter, she filed this lawsuit in state court. The sole count in the complaint is a claim for negligence. On August 1, 2011, the United States Attorney for the Northern District of Ohio certified that the defendants were acting within the scope of their authority as a deemed federal facility at the time of the incident. Accordingly, defendants removed this matter to federal court. Defendants now move to dismiss this case for lack of subject matter jurisdiction. Plaintiff opposes the motion and, in the alternative, requests that the Court allow plaintiff to seek leave to dismiss the complaint voluntarily in order to pursue administrative remedies. Defendants expressly indicate that they do not object to allowing plaintiff to voluntarily dismiss her case in order to pursue administrative remedies. As such, the Court will GRANT plaintiff's alternative request.

CONCLUSION

For the foregoing reasons, Defendant's Motion to Dismiss (Doc. 4) is DENIED as MOOT and plaintiff's request to dismiss her case pursuant to Rule 41(a) and pursue administrative remedies is GRANTED.

IT IS SO ORDERED.

/s/ Patricia A. Gaughan
PATRICIA A. GAUGHAN
United States District Judge

Dated: 9/19/11