

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

DIANA BRADLEY, <i>et al.</i> ,	:	Case No. 1:10-cv-760
	:	
Plaintiffs,	:	Judge Timothy S. Black
	:	
vs.	:	
	:	
KEVIN MILLER., <i>et al.</i> ,	:	
	:	
Defendants.	:	

**ORDER GRANTING DEFENDANT JAMES D. POWELL’S
MOTION TO DISMISS CLAIMS OF PLAINTIFF CORA MAY PYLES (Doc. 151)**

This civil action is before the Court on Defendant James D. Powell’s motion to dismiss (Doc. 151) and the Plaintiff’s responsive memorandum (Doc. 171).¹ In his motion, Powell moves to dismiss the claims asserted against him by Plaintiff Cora May Pyles. (Doc. 151 at 2-4, 7-9). Plaintiff Diana Bradley, acting in her capacity as Pyles’s attorney-in-fact, agrees that Pyles does not state a claim against Powell in Counts One through Twelve of the Amended Complaint. (Doc. 171 at 3).

Plaintiffs’ Amended Complaint is ambiguous as to which claims are being asserted against which party. The Amended Complaint indicates that on December 1, 1999, Pyles was allegedly persuaded to invest \$50,000 with Defendant Kevin Miller, and in return, was promised six percent interest, or \$250 a month, for ten years. (Doc. 46 at

¹ Defendant James D. Powell is one of ten Defendants. The other Defendants are Kevin Miller, Capital Investments, Great Miami Debentures, Great Miami Real Estate, LLC, James Wilburn Powell, Curtis Powell, Deanna Powell, Hubert Rials, and Chatsworth Jacobs.

¶¶ 36-38). However, in November 2009, two months shy of the ten-year mark, Pyles was not given her monthly \$250. (*Id.* at ¶ 40). Further, in January 2010, Pyles’s lump sum payment of \$50,000 was not returned to her. (*Id.* at ¶ 42). The facts indicate that this is the extent of Pyles’s involvement in this case.

While Count One explicitly states that it is being brought by Pyles against Miller, Counts Two through Twelve merely state that each claim is being brought by “Plaintiffs” against “Defendants” without clarifying the precise parties involved. (*Id.* at ¶¶ 210-233).

Therefore, because the pleadings indicate that Pyles is only alleging claims against Miller, and because Bradley, acting through her capacity as Pyles attorney-in-fact, agrees that Pyles does not state any claims against Powell, all purported claims alleged by Cora May Pyles as against James D. Powell are dismissed.²

Accordingly, Defendant James D. Powell’s motion to dismiss (Doc. 151) is **GRANTED** as to the claims of Plaintiff Cora May Pyles.

IT IS SO ORDERED.

Date: 8/5/13

/s/ Timothy S. Black
Timothy S. Black
United States District Judge

² This dismissal pertains *only* to the alleged claims by Cora May Pyles as against James D. Powell, and *not* the claims asserted by the Bradleys as against James D. Powell.