

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DANIEL K. MILLER,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 13-315
)	Judge Nora Barry Fischer
)	
OFFICE OF CHILDREN, YOUTH and)	
FAMILIES OF ALLEGHENY COUNTY and)	
THE HONORABLE JUDGE DONALD)	
WALKO,)	
)	
Defendants.)	

ORDER

AND NOW, this 30th day of July, 2013, upon consideration of Defendant Office of Children, Youth, and Families of Allegheny County's ("CYF ") Motion to Dismiss (Docket No. [16]) and Brief in Support (Docket No. [17]), seeking dismissal of Plaintiff's §1983 claims against it because CYF is a sub-unit of Allegheny County and cannot be sued, to which Plaintiffs have failed to timely respond within 21 days as required under the Court's Order on Motions Practice entered on June 24, 2013, (Docket No. 14), and after evaluating the allegations in Plaintiff's Complaint in light of *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2008), and Third Circuit precedent, including *Santiago v. Warminster Twp.*, 629 F.3d 121, 130 (3d Cir. 2010),

IT IS HEREBY ORDERED that the CYF's Motion to Dismiss [16] is GRANTED. In so holding, counsel should be aware, that this Court and others have routinely found that Allegheny County CYF is a subunit of Allegheny County, and as a subunit, lacks the capacity to be sued under §1983. See *Breakwell v. Allegheny County*, Civ. No. 08-389, 2008 WL 3895698, *4 (W.D. Pa. 2008) (Fischer, J.); *Patterson v. Armstrong County Children and Youth Services*, 141

F. Supp. 2d 512, 542-43 (W.D. Pa. 2001) (Lee, J.); *Livingston v. Allegheny Cnty.*, Civ. No. 07-1010, 2010 WL 376318 (W.D. Pa. Jan. 27, 2010) (Lenihan, J), *aff'd*, 400 F. App'x 659 (3d Cir. 2010).

s/Nora Barry Fischer
United States District Judge

cc/ecf: All counsel of record.