

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

DANA ECHARD, individually
and on behalf of the wrongful
death beneficiaries of LESLIE
EUBANK,

Plaintiff,

v.

Civil Action No. 2:17-cv-03530

WEST VIRGINIA VETERANS NURSING
FACILITY and JAMES B. HILL,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending is Dana Echard's ("Ms. Echard") motion to remand, filed October 10, 2017. Ms. Echard initiated this action in Kanawha County Circuit Court on April 17, 2017. She alleges that the West Virginia Veteran's Nursing Facility ("WVVNF") and Dr. James B. Hill ("Dr. Hill") negligently cared for the deceased, Leslie Eubank, resulting in his death.

Because Dr. Hill is an employee of the Federal Veteran's Administration, the United States removed the action to this court on July 6, 2017, pursuant to 28 U.S.C. §§ 2679, 1442, and 1446. On August 23, 2017, the court dismissed Dr. Hill from the action according to an agreed order. Ms. Echard now seeks to remand the action to state court for lack of

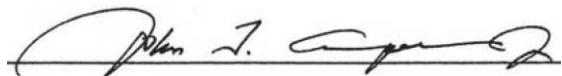
subject matter jurisdiction. The WVVNF does not object to remand.

Subject matter jurisdiction in the United States district courts can arise through either federal question or diversity. See 28 U.S.C. § 1331, 1332 (2015). For cases removed from a state court to a district court, “[i]f at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded.” Id. § 1447(c). The only remaining claim in this case is a state-law negligence action against the WVVNF, a state agency. Accordingly, the court lacks subject matter jurisdiction over the action, and the action must be remanded.

For this reason, it is ORDERED that Ms. Echard’s motion to remand this action to Kanawha County Circuit Court be, and hereby is, granted.

The Clerk is directed to forward copies of this written opinion and order to all counsel of record and any unrepresented parties.

ENTER: November 6, 2017



John T. Copenhaver, Jr.
United States District Judge