

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

HARRY BURTON KELLOGG III,

Plaintiff,

v.

NATALIE HOBSON and DEVAL LLC,

Defendants and Third-Party
Plaintiffs,

ORDER

16-cv-453-jdp

v.

BENJAMIN S. CARSON, Secretary, and
UNITED STATES DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT,

Third-Party Defendants.

Plaintiff Harry Burton Kellogg III brings this lawsuit, alleging that defendant Deval LLC and its employee, defendant Natalie Hobson, defrauded him in servicing his mortgage held by the United States Department of Housing and Urban Development (HUD). Deval and Hobson filed a third-party complaint seeking indemnification by third-party defendants HUD and then-Secretary Julian Castro. (The caption has since been amended to reflect Benjamin S. Carson as the new HUD secretary.)

HUD and Carson have filed a motion to dismiss the third-party claims against them, Dkt. 31, contending that only the United States Court of Federal Claims may hear those claims because they involve more than \$10,000. *See* U.S.C. §§ 1491 (jurisdiction over contract disputes with United States granted to Court of Federal Claims) and 1346 (district courts have concurrent jurisdiction over contract claims involving United States not exceeding \$10,000). HUD and Carson have also filed a motion for a ruling on this motion.

Dkt. 39. Deval and Hobson respond to the motion to dismiss by stating that they have no objection to the motion. Dkt. 36. Because I take Deval and Hobson to be conceding that this court cannot exercise jurisdiction over their claims, I will grant HUD and Carson's motion to dismiss, and dismiss them from the case.

Kellogg has filed his own motion to amend the complaint by removing Hobson as a defendant. He states that he will instead focus on Deval, who failed to properly train Hobson. I will grant this motion, dismiss Kellogg's claims against Hobson, and dismiss Hobson from the case.

ORDER

IT IS ORDERED that:

1. Third-party defendants United States Department of Housing and Urban Development and Secretary Benjamin S. Carson's motion for a ruling on their motion to dismiss, Dkt. 39, is GRANTED.
2. Third-party defendants' motion to dismiss the claims against them, Dkt. 31, is GRANTED.
3. Plaintiff Harry Burton Kellogg III's motion to amend the complaint by removing defendant Natalie Hobson from the caption and dismissing all claims against her, Dkt. 35, is GRANTED.
4. HUD, Carson, and Hobson are DISMISSED from the case.

Entered April 17, 2017.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge