

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

FILED
U.S. DISTRICT COURT

2012 MAR -9 A 10:07

DISTRICT OF UTAH

LEANN C. BRIMLEY,)
)
 Plaintiff,)
)
 vs.)
)
 S.C. PHIPPEN MEDICAL, LLC, et al.,)
)
 Defendants.)

Civil No. 2:11-CV-1142-BSJ
BY: _____
DEPUTY CLERK

ORDER

Pending before the court are a motion by Plaintiff to amend her complaint by substitution of two non-diverse Defendants for two non-diverse Defendants who were party to the complaint when it was originally removed (dkt. no. 32); a motion to stay awaiting action by the United States Judicial Panel on Multi-District Litigation (dkt. no. 3); and a second motion to remand (dkt. no. 42).

The matter came on for hearing on March 5, 2012, and appearances were made as follows: Brian S. Franciskato and Eric G. Goodrich appeared on behalf of the Plaintiff; and John A. Anderson and Timothy M. Considine appeared on behalf of Defendants.

The parties called to the court's attention a Conditional Transfer Order by the Judicial Panel. Neither had a copy. No copy appeared in the court's file. Counsel suggested this case was stayed by virtue of such order.

The court reserved on the motions, pending receipt of a copy of the order. Counsel furnished a copy to the court later that day.

The order entered states in part:

This order does not become effective until it is filed in the Office of the Clerk of the United States District Court for the Northern District of Ohio. The transmittal of this order to said Clerk shall be stayed 7 days from the entry thereof. If any party files a notice of opposition with the Clerk of the Panel within this 7-day period, the stay will be continued until further order of the Panel (emphasis added).

Counsel for Plaintiff represented to the court that Plaintiff had filed an opposition to the Conditional Transfer Order.

As the court reads the order, when that occurs, the Conditional Transfer Order is stayed.

Thus, this court is free to deal with the pending motions and thus rules as follows:

The Motion to Stay is DENIED.

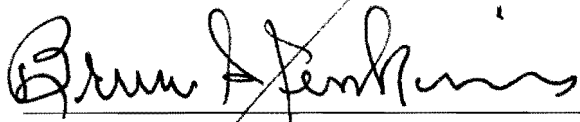
Plaintiff's Motion to Amend by substituting two non-diverse Defendants for 2 non-diverse Defendants is GRANTED.

The Complaint, as amended, is remanded to the state court, the diversity jurisdiction of this court having been extinguished by such a substituting amendment.

SO ORDERED.

DATED this 9TH day of March, 2012.

BY THE COURT:



Bruce S. Jenkins
United States Senior District Judge