

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

STATE OF KANSAS on behalf of)
UNIVERSITY OF KANSAS HOSPITAL)
AUTHORITY,)

Plaintiff,)

v.)

BRIAN TITUS,)

Defendant.)

BRIAN TITUS,)

Third-Party Plaintiff,)

v.)

AMERICAN ITALIAN PASTA COMPANY)
EMPLOYEE HEALTH CARE PLAN,)

Third-Party Defendant.)

CIVIL ACTION

No. 05-2301-CM

ORDER

Plaintiff State of Kansas, on behalf of University of Kansas Hospital Authority, originally brought this debt collection action against defendant Brian Titus in the District Court of Wyandotte County, Kansas, seeking payment for professional and hospital services. Mr. Titus filed a third-party petition, which included ERISA claims against two third-party defendants: FMH Benefits Services, Inc. and American Italian Pasta Company. Third-party defendant FMH Benefits Services, Inc. removed the case to federal court, and both third-party defendants filed motions to dismiss (Docs. 3 and 4). They claim that they are not proper parties

to the action and that the proper third-party defendant is the American Italian Pasta Company Employee Health Care Plan.

When Mr. Titus did not respond to the motions to dismiss in a timely manner, the court ordered Mr. Titus to show cause by August 18, 2005 why the motions should not be granted as uncontested. Although Mr. Titus did not respond to the show cause order, he did file an amended third-party complaint on August 18, 2005. The amended third-party complaint alleges claims only against a new third-party defendant, American Italian Pasta Company Employee Health Care Plan. Because the amended third-party complaint contains no claims against either FMH Benefits Services, Inc. or American Italian Pasta Company, the court denies their motions (Docs. 3 and 4) as moot.

IT IS THEREFORE ORDERED.

Dated this 22nd day of August 2005, at Kansas City, Kansas.

s/ Carlos Murguia _____
CARLOS MURGUIA
United States District Judge