

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

M.W., a minor child, by and through his
natural mother and next friend,
LARISSA CERVANTES,
Plaintiff

v.

Case No: 08-1138-JTM-KMH

CHILDREN'S MERCY HOSPITAL, et al.,
Defendants.

ORDER GRANTING DEFENDANTS' MOTIONS TO DISMISS

NOW on this 17th day of July, 2008, this matter comes before the Court on defendants' motions to dismiss due to lack of diversity jurisdiction. Plaintiff appears by and through her counsel Brad Prochaska of The Law Office of Prochaska, Giroux, and Howell. Defendant, Labette Health Foundation, by and through its counsel, Janet M. Simpson of Holbrook & Osborn P.A., Defendant Dr. Manish Dixit, by and through Leigh C. Hudson of Hudson & Mullies, LLC, and Defendant Children's Mercy Hospital, by and through Maggie L. Nigro of Husch, Blackwell, Sanders, LLP. There are no other appearances and none further are required.

THEREUPON, THE Court, having reviewed the Motions of defendants, FINDS, ORDERS, AND ADJUDGES as follows:

Due to jurisdictional issues, the Plaintiff was unable to bring all the necessary parties before a single state court. As a result, the Plaintiff in good faith filed this action in this Court in the hope that all the necessary parties could be joined in a single action. However, after thorough recent research, it has become evident that this will not be possible due to the requirement for complete diversity.

WHEREFORE, the Court grants the defendants' motions to dismiss due to lack of diversity jurisdiction and dismisses plaintiff's action without prejudice. It is also stipulated between the parties that the dismissal is pursuant to Rule 41(a)(1)(ii).

IT IS BY THE COURT SO ORDERED.

/s/ J. Thomas Marten
JUDGE OF THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT

Submitted by:

/s Bradley J Prochaska
Bradley J. Prochaska
Prochaska, Giroux, & Howell
7701 E. Kellogg, Suite 415
Wichita, KS 67207
(316) 683-9080
(316) 683-6508 (fax)
brad@pgh-law.com
Attorney for Plaintiff Larissa Cervantes

/s Janet M. Simpson
Janet M. Simpson
Holbrook & Osborn, P.A.
7400 W. 110th St., Suite 600
Overland Park, KS 66210
(913) 342-2500
(913) 342-0603
Jmsimpson@holbrookosborn.com
Attorney for Defendant Labette Health Foundation

/s Leigh C. Hudson
Leigh C. Hudson
Hudson & Mullies, LLC
710 West 8th Street, Suite 203

P O Box 866
Fort Scott, KS 66701
620-223-2900
620-223-2902 (fax)
leigh@hudsonmullies.com
Attorney for Defendant Dixit

HUSCH, BLACKWELL, SANDERS, LLP

/s Maggie L. Nigro
Maggie L. Nigro
Husch, Blackwell, Sanders, LLP
1200 Main Street, Suite 2300
Kansas City, MO 65105
816-421-4800
816-421-0596 (fax)
scott.martin@huschblackwell.com
maggie.nigro@huschblackwell.com
Attorneys for The Children'