

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Brittany R. Tovar,

Plaintiff,

Civ. No. 16-100 (RHK/LIB)

v.

ORDER

Essentia Health, Innovis Health, LLC,
d/b/a Essentia Health West, and
HealthPartners, Inc.,

Defendants.

By Order dated May 11, 2016 (Doc. No. 22), the Court granted Defendants' Motions to dismiss this action, with Count III of Plaintiff's Complaint, against HealthPartners, Inc. ("HealthPartners"), dismissed without prejudice. Among other things, the Court concluded Count III had named the wrong entity as a defendant and, as a result, Plaintiff lacked standing to sue HealthPartners in that Count. (See id. at 5-8.) Judgment in accordance with the foregoing entered that same day. (See Doc. No. 23.)

On June 8, 2016, Plaintiff moved to amend the Judgment, asking that the dismissal of Count III be changed to be *with* prejudice. The ostensible purpose for this Motion was Plaintiff's desire to appeal the dismissal of her claims, and she expressed concern that a without-prejudice dismissal of Count III was non-final, and hence non-appealable. HealthPartners opposed the request, out of concern it would be required to litigate on two fronts: on appeal in this case, and in a separate action against HealthPartners Administrators, Inc. ("HPAI"), the "correct" party in Count III. HealthPartners therefore

asked the Court to order Plaintiff “to amend her Complaint to add HPAI as a defendant . . . , so that the Amended Complaint can be dismissed [with prejudice] and the Eighth Circuit can take up Plaintiff’s arguments in a single appeal.” (Doc. No. 28 at 2.) In Reply, Plaintiff denies seeking to litigate in piecemeal fashion but agrees with HealthPartners’ approach: “Plaintiff requests that the Court grant her leave to amend her Complaint to add HPAI as a defendant [on Count III] and that the Court then reissue its order, dismissing [that Count] with prejudice against both HealthPartners and HPAI.” (Doc. No. 31 at 3-4.)

The Court agrees that the parties’ proposal will facilitate a single appeal and permit resolution of this case in a streamlined fashion, and hence it is appropriate to amend the Judgment as requested. Based on the foregoing, and all the files, records, and proceedings herein, **IT IS ORDERED** that Plaintiff’s Motion (Doc. No. 24) is **GRANTED** as follows: (1) the Judgment entered in this action on May 11, 2016 (Doc. No. 23) is **VACATED**; (2) Plaintiff’s Complaint is **AMENDED** to add HealthPartners Administrators, Inc. (“HPAI”) as a Defendant on Count III; and (3) all claims in this newly amended Complaint are **DISMISSED WITH PREJUDICE**, for the reasons stated in the Court’s May 11, 2016 Order (Doc. No. 22).

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: June 23, 2016

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge