

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

COLLEEN BRUCE,

Plaintiff,

v.

Case No.: 2:22-cv-721-SPC-KCD

PORT CHARLOTTE HMA, LLC,

Defendant.

_____ /

ORDER¹

Before the Court is Plaintiff Colleen Bruce's Complaint and Demand for Jury Trial. ([Doc. 1](#)). Bruce alleges the case includes an action for damages in violation of the Fair Labor Standards Act ("FLSA"), and thus federal court has jurisdiction. ([Doc. 1 at 1](#)). But the only two claims in the Complaint are brought under Florida law. ([Doc. 1 at 47-54](#)).

Federal courts must ensure such jurisdiction sua sponte whenever it may be lacking. *Gonzalez v. Thaler*, 565 U.S. 134, 141 (2012). Mostly, a federal court has original jurisdiction over two types of cases—federal question (28 U.S.C. § 1331) and diversity (28 U.S.C. § 1332). The burden to establish

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jurisdiction falls on the party asserting it, who is Plaintiff here. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). If a court decides it has no jurisdiction, it “must dismiss the complaint in its entirety.” *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514 (2006).

Since Plaintiff’s two claims are brought only under state law, there is no federal question. Diversity jurisdiction is not alleged, nor does it seem the parties are diverse. Because the Court cannot conclude it has jurisdiction, it dismisses this action without prejudice.

Accordingly, it is now

ORDERED:

1. This action is **DISMISSED without prejudice** for lack of subject matter jurisdiction.
2. Plaintiff may file an amended complaint by **December 28, 2022**. **Failure to do so will cause the Court to close this case without further notice.**

DONE and ORDERED in Fort Myers, Florida on December 14, 2022.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record