

Appendixes Pages 1-27

Appendixes

Appendixes A1-A6 pgs 1-6

November 4, 2024

Memorandum /order decision of United States Eastern Pennsylvania

District trial Court Judge John F. Murphy dismissed civil medical

malpractice case for lack subject

matter jurisdiction.

Statement in memorandum includes District Judge John Murphy

admitting the Defendants is

negligent in my medical treatment (civil case

docket number 24:Civ-02970 JFM)

Appendix B1 pg.7

June 9, 2025 First filed Opinion /judgment denied decision of Third

Circuit

Court L.A.R.34.1(a) Three panel judges Phipps Krause, and Roth.

Filed Opinion was Signed per

cuim civil case docket number 24:3197).

And

Appendix B 2:pg 8 judgment of Third Circuit three panel judges

submitted June 9,2025

Appendix B3 pgs.9-16 Third circuit three panels Judge's decision

(allegedly which appears to be statement opinion of Defendants not

panel judges) I received document without filing number docketed on

page.

Appendix C 1 pg.17 April 7, Notice from 3rd circuit clerk of courts from

third stating defendant's counsel and I prose litigant is not required

to be present at 3rd

circuit judge's hearing for oral argument

Signed by circuit clerk of courts not third circuit panel judges

L.A.R.

Appendix D1 pg. 18 September 11,2025 The third Circuit Clerk of

court providing information in reference to the appellate's motion

request for type of rehearing.(civil case docket number

24:3197).

Appendix D 2:pg.19 August 20,2025 Decision Granted motions for

rehearing, extended time, summary judgment order signed by Third

circuit judge Phipps(civil case docket number 24:3197)

Appendix E1-E3 pgs.20-23 summary case docket for the Third Circuit

Court L.A.R.34.1(a)Appeal civil case

docket number 24:3197

Appendixes F 1-F3 pgs 23-26 Summary case docket sheets for cases

number 24-Civ-0297-JFM

Appendix G1&2: pg.26 October 3,2025 third circuit clerk of courts

submitted en-banc Third Circuit judges response to rehearing

decision denied Sur petition without vote or judgment .(civil

case docket number 24:3197)

Appendix H: pg.27 October 8,2025 Document from circuit clerk of

courts noting motion is on record (24:3197)

Moreover, I am in the process of filing motion of discovery regarding power of attorney or Guardian ship on my behalf that I do not consent to at the Chester County Justice Center located at 201W Market Street West Chester PA,19380. Inquiring this information could potentially have to do with the alleged abuse of judicial system in reference to litigation proceeding in my civil case.

Respectfully Submitted, Barbara Anne Clark (age 46) 322 East Chestnut Street apt 6 Coatesville

PA19320.(610)563-8090

Barbara Anne Clark

Anneclark9601@gmail.com

APRIL 10, 2026

Appendix A 1 pg 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BARBARA ANNE CLARK

: CIVIL ACTION

v.

: NO. 24-2970

HOSPITAL UNIVERSITY
PENNSYLVANIA, PENN MEDICINE
ORTHOPEDICS, BETTY S. ADLER

MEMORANDUM

November 4, 2024

MURPHY, J.

Plaintiff Barbara Ann Clark brings claims against defendants Hospital of the University Pennsylvania, Penn Medicine Orthopedics, and Attorney Betty Alder for injuries resulting from defendants' treatment of her foot injury. ~~Though we are sympathetic to the challenges of~~

bringing a lawsuit as a *pro se* litigant, we cannot exercise jurisdiction over a state medical malpractice claim between citizens of the same state. Because we do not have subject-matter jurisdiction over Ms. Clark's claims, we grant Penn's motion to dismiss.

I. **FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY**

Ms. Clark, proceeding *pro se*, filed a complaint against Hospital of the University of Pennsylvania, Penn Medicine Orthopedics, and Betty Alder¹ (collectively "Penn") for "medical

¹ In the civil cover sheet attached to her complaint, Ms. Clark lists Attorney Alder as the attorney for defendants, not a defendant herself. DI 1 at 7. The complaint does not allege any facts involving Attorney Alder. It is our understanding that Ms. Clark did not intend to name Attorney Alder as an individual defendant in this matter. Nonetheless, because Attorney Alder is listed in the case caption of Ms. Clark's complaint and on the public docket as a defendant, we include her as a defendant for purposes of this motion to dismiss.

malpractice negligence.” DI 1.² Because we are reviewing a facial challenge to subject-matter jurisdiction on a motion to dismiss, we accept Ms. Clark’s allegations as true.

Ms. Clark states that she is a resident of Coatesville, Pennsylvania. *Id.* 1, 6. She alleges that Penn’s address is 2929 Walnut Street in Philadelphia, Pennsylvania. *Id.* at 1. According to Ms. Clark, she visited a Penn Medicine facility in December 2018 for medical care for her left foot. DI 1 at 2. A Penn Medicine orthopedist, Dr. O’Connor, reviewed x-rays of Ms. Clark’s foot and applied a cast. *Id.* On February 15, 2019, she visited the Chester County location of Penn Medicine Orthopedics and told another provider, Greg Rannalli, that she “was still having pain in the middle part of [her] foot.” *Id.* Despite her pain, Mr. Rannalli removed the cast and gave her a prescription for physical therapy. *Id.* On May 29, 2019, she went to the “Chester County Emergency room” with unbearable pain in her foot and received x-rays. *Id.* She then received an MRI from Premier Orthopedic that showed three ligament tears with “complications.” *Id.* She had a “5th masteral sprain” of her left foot that progressed to “peroneal tendinitis” due to “overuse” of an “ankle sprain not healed.” *Id.*

Ms. Clark states that the only way to repair a “grade 3” ligament tear is surgery. *Id.* In March 2021, she attended an appointment with Penn Medicine surgeon Dr. Wen Choa, who suggested that Ms. Clark wear an “AZ brace.” *Id.* The brace was “defective,” made by staff who “didn’t” seem to have the medical credentials” to properly size her foot, and “disfigured,” so she could not wear it. *Id.* at 2-3. Ms. Clark saw Dr. Choa again in 2022 and complained about her ongoing symptoms. *Id.* at 3. Dr. Choa reviewed ultrasound results and told Ms. Clark that “it was critical,” and she needed surgery. *Id.*

² We adopt the pagination supplied by the CM/ECF docketing system.

Ms. Clark alleges that the surgery was performed in an “unsafe environment at the old Penn medicine hospital located on Spruce [S]treet,” as opposed to “the new Penn Medicine Hospital on 1 Convention Ave.” *Id.* The surgery resulted in nerve damage and infection at the incision site. *Id.* Dr. Choa removed Ms. Clark’s stitches at her second post-operation appointment, but “incision cleaning was not done.” *Id.* The incision site showed “signs of infection,” but Dr. Choa did not order antibiotics. *Id.* Despite Ms. Clark’s complaints that her foot was still leaning towards the left, Dr. Choa did not order radiology or lab tests. *Id.*

A few months after surgery, Ms. Clark visited a neurologist who performed an “EMG” test of her left foot “due to odd sensation feeling at [the] surgical site.” *Id.* at 4. She was diagnosed with CRPS chronic regional pain syndrome, tarsal tunnel syndrome, and hyperpathia and allodynia, as well as “denervation from post-surgery operation.” *Id.* These conditions are “caused by surgery injury.” *Id.* She is now in a wheelchair and is receiving physical therapy. *Id.*

Ms. Clark claims that Penn physicians’ delayed diagnosis, delayed treatment of surgery, and post-surgical treatment constituted medical malpractice. *Id.* at 1, 3. She claims that Penn hospital is liable for their providers’ negligence. *Id.* at 4. She requests compensatory and punitive damages in the amount of \$100,000,000 (one-hundred million dollars). *Id.* at 5.

Penn filed a motion to dismiss Ms. Clark’s complaint. DI 6. We held oral argument on the motion on October 25, 2024. DI 12. Penn’s primary argument is that Ms. Clark’s complaint should be dismissed for lack of subject-matter jurisdiction pursuant to Rule 12(b)(1). DI 6-1. Penn argues that Ms. Clark fails to plead that her medical malpractice claim arises under federal law, *id.* at 4, and that she fails to establish complete diversity of citizenship between herself and

defendants, *id.* at 5.³ *Id.* In response, Ms. Clark states that she answered questions about subject-matter jurisdiction in the civil cover sheet attached to her complaint. DI 7 at 2.

II. STANDARD OF REVIEW

Rule 12(b)(1) allows a party to move to dismiss a case based on a lack of subject-matter jurisdiction. Fed. R. Civ. P. 12(b)(1). A facial challenge pursuant to Rule 12(b)(1) “considers a claim on its face and asserts that it is insufficient to invoke the subject matter jurisdiction of the court.” *Constitution Party of Pennsylvania v. Aichele*, 757 F.3d 347, 358 (3d Cir. 2014). When reviewing a facial challenge to subject-matter jurisdiction, we must determine “whether the allegations on the face of the complaint, taken as true, allege facts sufficient to invoke the jurisdiction of the district court.” *Batchelor v. Rose Tree Media School Dist.*, 759 F.3d 266, 271 (3d Cir. 2014) (quoting *Taliaferro v. Darby Twp. Zoning Bd.*, 458 F.3d 181, 188 (3d Cir. 2006)). Ms. Clark is proceeding *pro se*, so we must construe her allegations liberally. See *Walthour v. City of Philadelphia*, 852 Fed. App’x 637, 639 (3d Cir. 2021). Nonetheless, if we determine at any time that we lack subject-matter jurisdiction, we must dismiss the action.” Fed. R. Civ. P. 12(h)(3); see *In re Schering Plough Corp. Intron/Temodar Consumer Class Action*, 678 F.3d 235, 243 (3d Cir. 2012).

III. DISCUSSION

Ms. Clark’s complaint does not raise a federal question or invoke this court’s diversity jurisdiction. “Federal courts are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute.” *Kokkenen v. Guardian Life Ins. Co. of America*, 511

³ Penn also argues that the complaint should be dismissed under Rule 12(b)(6) because the allegations lack factual specificity. DI 6-1 at 5. In response, Ms. Clark argues that she has proven the elements of medical malpractice in her complaint. DI 7 at 2. Because we dismiss for lack of subject-matter jurisdiction, we do not reach this argument.

U.S. 375, 377 (1994). A federal district court has federal question jurisdiction over “all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. It has diversity jurisdiction over “civil actions where the matter in controversy exceeds the sum or value of \$75,000” and is between “citizens of different States.” 28 U.S.C. § 1332(a).

Ms. Clark’s complaint does not raise a federal question. A party asserting federal question jurisdiction must satisfy the well-pleaded complaint rule, “which mandates that the grounds for jurisdiction be clear on the face of the pleading that initiates the case.” *Goldman v. Citigroup Global Markets Inc.*, 834 F.3d 242, 249 (3d Cir. 2016) (citing *Franchise Tax Bd. of State of Cal. v. Constr. Laborers Vacation Tr. for S. Cal.*, 463 U.S. 1, 9-11 (1983)). “[A] well-pleaded complaint establishes either that federal law creates the cause of action or that the plaintiff’s right to relief necessarily depends on resolution of a substantial question of federal law.” *Franchise Tax Bd.*, 463 U.S. at 27-28.

In the civil cover sheet attached to her complaint, Ms. Clark checks the box for the “federal question” basis for jurisdiction. DI 1 at 7. Yet the complaint itself does not cite or refer to any federal law. Rather, the complaint appears to assert state law medical malpractice claims against Penn. The complaint is labeled a “Medical Malpractice Complaint,” DI 1 at 1, and it repeatedly refers to negligence and medical malpractice, *id.* at 1, 4-6. All of Ms. Clark’s allegations concern negligent treatment of her foot injury. *See* DI 1. On the face of the complaint, Ms. Clark has not established that her claims arise under federal law. *See Jones v. Mirza*, 685 Fed. App’x 90, 91-92 (3d Cir. 2017) (finding no federal question jurisdiction over a *pro se* plaintiff’s medical negligence claims).

We also lack diversity jurisdiction over Ms. Clark’s claims. “[Diversity] [j]urisdiction under § 1332(a) requires complete diversity, meaning that no plaintiff can be a citizen of the

same state as any of the defendants." *Johnson v. SmithKline Beecham Corp.*, 724 F.3d 337, 346 (3d Cir. 2013) (internal quotations omitted). Though Ms. Clark asserts an amount in controversy greater than \$75,000, it appears from the complaint that both Ms. Clark and Penn are citizens of Pennsylvania. Ms. Clark states that she resides in Coatesville, Pennsylvania. DI 1 at 1, 6. She lists the address for Penn defendants as 2929 Walnut Street in Philadelphia, Pennsylvania. *Id.* at 1. The medical care at issue was allegedly performed at Penn "medical facilities" in Philadelphia, Penn Medicine Orthopedics in Chester County, and the "old Penn [M]edicine hospital" on Spruce Street in Philadelphia — all locations within Pennsylvania. *Id.* at 2-3. Ms. Clark does not allege that Penn is a citizen of any state other than Pennsylvania. Without complete diversity between the parties, we cannot exercise diversity jurisdiction. *See* 28 U.S.C. § 1332. Accordingly, because we lack subject-matter jurisdiction over Ms. Clark's claims, dismissal is required.

IV. CONCLUSION

For the foregoing reasons, we grant Penn's motion to dismiss pursuant to Rule 12(b)(1). Ms. Clark's claims against Hospital of the University of Pennsylvania, Penn Medicine Orthopedics, and Betty Alder are dismissed for lack of subject-matter jurisdiction.


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Appendix
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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BARBARA ANNE CLARK : CIVIL ACTION
: :
v. : NO. 24-2970
: :
HOSPITAL UNIVERSITY :
PENNSYLVANIA, PENN MEDICINE :
ORTHOPEDICS, BETTY S. ADLER :

ORDER

AND NOW, this 4th day of November 2024, upon considering defendants' motion to dismiss (DI 6), plaintiff's opposition (DI 7), following oral argument held on October 25, 2024, and for reasons in the accompanying memorandum, it is **ORDERED** defendants' motion to dismiss (DI 6) is **GRANTED** pursuant to Rule 12(b)(1). Ms. Clark's claims against Hospital of the University of Pennsylvania, Penn Medicine Orthopedics, and Betty Alder are dismissed for lack of subject-matter jurisdiction. The Clerk of Court shall close this case.


MURPHY, J.

Appendix B1
NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-3197

BARBARA ANNE CLARK

v.

HOSPITAL OF THE UNIVERSITY OF PENNSYLVANIA; PENN MEDICINE
ORTHOPEDICS; BETTY S ALDER, INSURANCE ATTORNEY

~~On Appeal from the United States District Court~~
~~for the Eastern District of Pennsylvania~~
~~(D.C. No. 2:24-cv-02970)~~
~~District Judge: Honorable John F. Murphy~~

Submitted Pursuant to Third Circuit LAR 34.1(a)
April 7, 2025
Before: KRAUSE, PHIPPS, and ROTH, Circuit Judges

(Opinion filed: June 9, 2025)

OPINION*

PER CURIAM

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Barbara Anne Clark, proceeding pro se, appeals the District Court's November 5, 2024 Order dismissing her complaint for lack of subject-matter jurisdiction. We will affirm the Court's order.

In 2023, Clark filed a complaint against the named defendants, alleging they had, over a period of several years, committed medical malpractice in the treatment of her left foot, causing her lasting injuries and significant pain and suffering. After being served and entering an appearance, the defendants moved to dismiss the complaint for lack of subject-matter jurisdiction. After receiving briefing and hearing oral argument on the matter, the District Court granted the defendants' motion under Federal Rule of Civil Procedure 12(b)(1) and dismissed Clark's complaint without prejudice. The District Court determined that the parties were all domiciled in Pennsylvania and therefore not diverse for purposes of federal jurisdiction under 28 U.S.C. § 1332(a)(1), and that Clark had failed to invoke federal jurisdiction under 28 U.S.C. § 1331 because her claims arose under state law. Clark now appeals, and also seeks a default judgment against the appellees for their alleged failure to timely respond in the District Court.

We have jurisdiction under 28 U.S.C. § 1291. Dismissals under Rule 12(b)(1) are reviewed de novo. See Taliaferro v. Darby Twp. Zoning Bd., 458 F.3d 181, 188 (3d Cir. 2006). In reviewing a dismissal under Rule 12(b)(1), we review only whether the well-pleaded allegations on the face of the complaint, taken as true, allege facts sufficient to invoke the subject-matter jurisdiction of the District Court. Id.

We agree that the District Court correctly granted the motion to dismiss for lack of subject-matter jurisdiction. Nothing in Clark's filings with this Court meaningfully addresses the District Court's conclusion that her complaint failed to establish subject-matter jurisdiction, either by diversity or federal question. She cannot establish diversity jurisdiction, as her complaint expressly pleads that all parties are domiciled in Pennsylvania and that all relevant medical treatment occurred within the state. Johnson v. SmithKline Beecham Corp., 724 F.3d 337, 346 (3d Cir. 2013) (stating that complete diversity means that "no plaintiff can be a citizen of the same state as any of the defendants" (quotation marks omitted)). Nor did she plead federal question jurisdiction. Her complaint solely alleged a state-law medical-malpractice claim. While she argues on appeal that she has established federal question jurisdiction based on her right to petition the federal judiciary under the First Amendment of the Constitution, she did not plead a First Amendment claim. See Taliaferro, 458 F.3d at 188; see generally Patchak v. Jewell, 828 F.3d 995, 1004 (D.C. Cir. 2016) (explaining that "the right to access federal courts is subject to Congress's Article III power to define and limit the jurisdiction of the inferior courts of the United States"). As a result, Clark's complaint failed to establish that the District Court possessed subject-matter jurisdiction, and the District Court correctly granted defendants' motion to dismiss on those grounds.

Clark has also filed a motion in this Court in which she requests that a default judgment be entered against the appellees for their alleged failure to respond to her initial

complaint within 21 days. Fed. R. Civ. P. 12(a)(1)(A)(i). A motion for a default judgment should be filed in the District Court, not the Court of Appeals, see Fed. R. Civ. P. 1, 55, and in any event, the defendants entered an appearance and filed their motion seeking dismissal for lack of subject-matter jurisdiction within 21 days of service, as required by Rule 12. Fed. R. Civ. P. 12(a)(1)(A)(i).

For these reasons, the District Court's judgment will be affirmed. Clark's motion for a default judgment is denied.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Appendix
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No. 24-3197

BARBARA ANNE CLARK

v.

HOSPITAL OF THE UNIVERSITY OF PENNSYLVANIA; PENN MEDICINE
ORTHOPEDICS; BETTY S ALDER, INSURANCE ATTORNEY

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. No. 2:24-cv-02970)

District Judge: Honorable John F. Murphy

Submitted Pursuant to Third Circuit LAR 34.1(a)

April 7, 2025

Before: KRAUSE, PHIPPS, and ROTH, Circuit Judges

JUDGMENT

This cause came to be considered on the record from the United States District Court for the Eastern District of Pennsylvania and was submitted pursuant to Third Circuit LAR 34.1(a) on April 7, 2025. On consideration whereof,

It is now hereby ORDERED and ADJUDGED by this Court that the judgment of the District Court entered November 5, 2024, be and the same is hereby affirmed. Costs taxed against the appellant. All of the above in accordance with the opinion of this Court.

ATTEST:

s/ Patricia S. Dodszuweit
Clerk

Dated: June 9, 2025



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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

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No. 24-3197

BARBARA ANNE CLARK

v.

HOSPITAL OF THE UNIVERSITY OF PENNSYLVANIA; PENN MEDICINE
ORTHOPEDICS; BETTY S ALDER, INSURANCE ATTORNEY

(E.D. Pa. No. 2:24-cv-02970)

SUR. PETITION FOR REHEARING

Present: CHAGARES, *Chief Judge*, HARDIMAN, SHWARTZ, KRAUSE, RESTREPO,
PORTER, MATEY, PHIPPS, FREEMAN, MONTGOMERY-REEVES, CHUNG, and
ROTH, *Circuit Judges*.

The petition for rehearing filed by appellant in the above-entitled case having
been submitted to the judges who participated in the decision of this Court and to all the
other available circuit judges of the circuit in regular active service, and no judge who
concurred in the decision having asked for rehearing, and a majority of the judges of the

* Judge Roth's vote is limited to panel rehearing.

~~Appendix G 1~~

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circuit in regular service not having voted for rehearing, the petition for rehearing by the
panel and the Court en banc, is denied.

BY THE COURT,

/s/ Peter J. Phipps
Circuit Judge

Date: October 3, 2025
PDB/cc: Barbara Anne Clark
All Counsel of Record

~~Appendix G2~~



**Additional material
from this filing is
available in the
Clerk's Office.**