

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DONETTA BYRD,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 15-2076 (EGS)
)	
METROPOLITAN POLICE DEPARTMENT,)	
)	
Defendant.)	

MEMORANDUM OPINION

This matter is before the Court on Defendant’s Motion to Dismiss [ECF No. 4].¹ For the reasons discussed below, the Court will grant the motion.

I. BACKGROUND

The one-page handwritten complaint [ECF No. 1], while short on facts, clearly pertains to plaintiff’s encounter with unidentified Metropolitan Police Department (“MPD”) officers on February 9, 2014. Compl. at 1. Plaintiff alleges that police “knock[ed] and dragged [her] down,” and that she was taken by ambulance to the Washington Hospital Center for treatment of “a lot of swollen [sic] knees etc.” *Id.* As compensation for the resulting physical injuries, “aches and pains,” plaintiff demands damages of \$999,999,999.999. *Id.*

II. DISCUSSION

A. Subject Matter Jurisdiction

Defendant first moves to dismiss under Federal Rule of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction. “Because [p]laintiff’s complaint fails to allege any facts [to]

¹ The Court construes plaintiff’s “Appeal Order/Show Cause/Reconsideration Order” [ECF No. 7] as her opposition to defendant’s motion to dismiss. It fails to address the legal arguments set forth in defendant’s motion, however, and instead merely “ask[s] the Court to rule in favor of Donetta Byrd[.]” *Id.*

indicate that this Court has subject matter jurisdiction over her claim,” Def.’s Mem. at 2-3, defendant contends that the complaint should be dismissed in its entirety, *id.* at 3.

“Federal district courts are courts of limited jurisdiction,” and “[i]t is to be presumed that a cause lies outside this limited jurisdiction.” *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994) (citations omitted). A plaintiff therefore bears the initial burden of establishing by a preponderance of the evidence that the Court has subject matter jurisdiction over her claim. *See id.*; *see Citizens for Responsibility and Ethics in Wash. v. U.S. Dep’t of Homeland Sec.*, 527 F. Supp. 2d 101, 104 (D.D.C. 2007). In deciding a motion brought under Rule 12(b)(1), the Court “may consider materials outside the pleadings” and it must “accept all of the factual allegations in the complaint as true.” *Jerome Stevens Pharms., Inc. v. Food & Drug Admin.*, 402 F.3d 1249, 1253 (D.C. Cir. 2005) (internal quotation marks and citations omitted).

Federal question jurisdiction, *see* 28 U.S.C. § 1331, exists if plaintiff shows that her claim arises under the Constitution, laws or treaties of the United States. *See Arbaugh v. Y&H Corp.*, 546 U.S. 500, 513 (2006) (“A plaintiff properly invokes § 1331 jurisdiction when she pleads a colorable claim ‘arising under’ the Constitution or laws of the United States.”). Here, plaintiff does not identify a constitutional or statutory basis for her claims, and it is not apparent that this action arises under the United States Constitution or federal law.

Diversity jurisdiction, *see* 28 U.S.C. § 1332, is shown where both the matter in controversy exceeds \$75,000, and the suit is between citizens of different states. *See Price v. Phoenix Home Life Ins. Co.*, 44 F. Supp. 2d 28, 32 (D.D.C.) (“Diversity of citizenship requires complete diversity in which no opposing parties may be citizens of the same state.”), *aff’d sub nom. Price v. Phoenix Home Life Mut.*, 203 F.3d 53 (D.C. Cir. 1999). Here, although plaintiff

demands damages far in excess of \$75,000 threshold, all of the parties appear to reside or conduct business in the District of Columbia.

B. Failure to State a Claim

Alternatively, defendant moves to dismiss under Federal Rule of Civil Procedure 12(b)(6) on the ground that the complaint fails to state a claim upon which relief can be granted. *See* Def.’s Mem. at 3-4.

A plaintiff’s complaint need only provide a “short and plain statement of [her] claim showing that [she] is entitled to relief,” Fed. R. Civ. P. 8(a)(2), that “‘give[s] the defendant fair notice of what the . . . claim is and the grounds upon which it rests,’” *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (per curiam) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). “A Rule 12(b)(6) motion tests the legal sufficiency of a complaint[.]” *Browning v. Clinton*, 292 F.3d 235, 242 (D.C. Cir. 2002). To survive a motion to dismiss under Rule 12(b)(6), “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Twombly*, 550 U.S. at 570). In other words, it “must ‘plead[] factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.’” *Patton Boggs LLP v. Chevron Corp.*, 683 F.3d 397, 403 (D.C. Cir. 2012) (citing *Iqbal*, 556 U.S. at 678)). “[W]here the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged -- but it has not shown -- that the pleader is entitled to relief.” *Iqbal*, 556 U.S. at 679 (quoting Fed. R. Civ. P. 8(a)(2)) (brackets and internal quotation marks removed). For purposes of this discussion, the Court construes plaintiff’s complaint liberally, *see Haines v. Kerner*, 404 U.S. 519, 520 (1972), and presumes that its few factual allegations are true, *see Gray v. Poole*, 275 F.3d 1113, 1115 (D.C. Cir. 2002).

Plaintiff alleges that police “knocked and dragged [her] down,” Compl. at 1, yet the complaint sets forth no other facts about the encounter. As defendant notes, *see* Def.’s Mem. at 4, the circumstances of the encounter are unclear. If, for example, the police were arresting plaintiff, “[t]here are plausible scenarios in which [police] could permissibly ‘knock and drag’ an individual, such as while performing a lawful arrest.” *Id.* Alternatively, if plaintiff “is alleging that MPD officers intentionally assaulted or battered her,” defendant might raise a different defense. *See id.* As drafted, plaintiff’s complaint neither alleges sufficient facts to state a plausible claim, nor gives defendant fair notice of the claims against it.

III. CONCLUSION

The Court concludes that it lacks subject matter jurisdiction over plaintiff’s complaint. Even if plaintiff had established subject matter jurisdiction, the Court finds that the complaint fails to state a claim upon which relief can be granted. Accordingly, defendant’s motion to dismiss will be granted. An Order is issued separately.

Signed: EMMET G. SULLIVAN
United States District Judge

Dated: June 13, 2016