

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

LAURA BENEWAY,

Plaintiff,

v.

Case No. 17-cv-1216-JPG-DGW

JEFFERSON COUNTY, JEFFERSON
COUNTY SHERIFF TRAVIS ALLEN, C/O
MCKINNIES, CHERYL BROWN, DR.
PAULIUS and JOHN DOE,

Defendants.

MEMORANDUM AND ORDER

This matter comes before the Court on the motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) filed by defendants Cheryl Brown and Dr. Charles Paulius (Doc. 21). They ask the Court to dismiss plaintiff Laura Beneway's state law claims for failure to plead a cause of action and, specifically, to dismiss her state law medical malpractice claims because Beneway failed to attach to her complaint the affidavit and physician's report required by 735 ILCS 5/2-622. In response (Doc. 24), Beneway asserts she has not pled, and did not intend to plead, any state law medical malpractice cause of action or any other state law cause of action other than Count III, a state law indemnity claim under 745 ILCS 10/9-102 to hold Jefferson County liable for any judgment against its sheriff.

The Court has reviewed the Complaint and has determined that Beneway did not plead any state law causes of action against Brown and Paulius. Because Brown and Paulius ask the Court to dismiss causes of action that Beneway did not plead, the Court **DENIES** their motion to dismiss (Doc. 21) **as moot**.

IT IS SO ORDERED.

DATED: February 2, 2018

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE