

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-60778
Summary Calendar

MYRON BASS,

Plaintiff-Appellant,

versus

COMMUNITY HEALTH SYSTEMS, INC.; PARKWOOD HOSPITAL;
VICTORIA SHEETS,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 2:00-CV-193

August 22, 2001

Before JOLLY, DAVIS and BENAVIDES, Circuit Judges.

PER CURIAM:*

Because Myron Bass's prior civil action did not conclude with a final judgment on the merits as to Bass's state-law claims, see Bass v. Parkwood Hospital, 180 F.3d 234, 245-47 (5th Cir. 1999); Bass v. Parkwood Hospital, No. 2:96CV119-B-B (N.D. Miss. Aug. 24, 1999) (unpublished), the district court abused its discretion in determining that the state-law claims raised in the instant complaint are res judicata. See Ellis v. Amex Life Ins. Co., 211 F.3d 935, 936 (5th Cir. 2000).

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Bass has invoked the district court's diversity jurisdiction. See 28 U.S.C. § 1332(a)(1). The district court has not yet determined whether it has diversity jurisdiction over Bass's state-law claims. Although we doubt whether Bass's claim for damages in excess of the \$75,000 jurisdictional amount has been asserted in good faith, see St. Paul Mercury Indem. Co. v. Red Cab Co., 303 U.S. 283, 289 (1938), the record is not developed sufficiently to permit this court to affirm the dismissal of Bass's complaint on that basis. See Burns v. Anderson, 502 F.2d 970, 971 (5th Cir. 1974).

For the foregoing reasons, the district court's orders dismissing Bass's state-law claims as res judicata and denying Bass's motion under Fed. R. Civ. P. 60(b) are VACATED and the case is REMANDED for further proceedings.

VACATED AND REMANDED.