

EXHIBIT 9



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Writer's e-mail: cmccallum@mhcilaw.com

October 17, 2014

VIA ELECTRONIC MAIL

Adedapo T. Agboola
Bender and Agbolla, LLC
711 North 18th Street
Birmingham, Alabama 35203

RE: *Roberta Clark v. Planned Parenthood Southeast, Inc. and Dr. Aqua Don E. Umoren, M.D.*

Dear Mr. Agboola:

This will respond to your letter dated October 13, 2014 and subsequent email of the same date.

We totally disagree with your assertion that Dr. Umoren was domiciled in the State of Alabama at the time this action was commenced in August 2012 or any time thereafter. Because of difficulties in communicating with Dr. Umoren, we can neither confirm nor deny that he presently maintains a dual citizenship with the United States of America. In any event, for purposes of establishing diversity, it is only necessary to demonstrate that Dr. Umoren was not domiciled in Alabama at the time the action was commenced in August 2012.

Based upon our prior communications with Dr. Umoren, his sworn testimony, as well as all of the supporting evidence we have, there is absolutely nothing to support your assertion that Dr. Umoren was domiciled in the State of Alabama in August 2012 or any time thereafter. In fact, there is nothing to establish he was domiciled in, a resident of, or intended to make Alabama his home at any time after he moved from Tuscaloosa after 2002.

I do take issue with your email dated October 13, 2014, wherein you claim I stated that "Dr. Umoren's position was that he was a resident of California at the time of filing this Complaint." I do not recall making that statement and such a statement would be inconsistent with all the information that we have previously provided.

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As you are aware, in his deposition, Dr. Umoren testified that he lived in Nigeria from 1984 to 1994; lived in Tuscaloosa, Alabama from 1994 to 2002; he then returned to Nigeria from 2002 to 2003; from 2003 through 2008 he lived in California; and, after retiring from full-time practice in California in late 2008 he returned to his home in Nigeria where he has maintained his permanent and primary residence. His wife also lives in Nigeria. (Dr. Umoren depo., pp. 9, 10, 14, 162-163, 169-172.) Likewise, in Interrogatory Response No. 4, Dr. Umoren further states he has resided in Nigeria since 2008.

As to the bankruptcy filings you referenced in your letter, it appears that Dr. Umoren filed a Petition in the Northern District of Alabama in December 2002 listing an address in Tuscaloosa. Later, it appears the Petition was converted to a Chapter 13 Bankruptcy on January 9, 2004 and at that time he listed a California address. This is consistent with his testimony. Since he retired in 2008, he has sporadically worked in Alabama while maintaining his permanent domicile in Nigeria. We know of no evidence that suggests in the slightest form that Dr. Umoren had a fixed home or principal establishment in the State of Alabama at any time since 2003. To the contrary, it is plain that Dr. Umoren has resided in Nigeria and has intended that to be his permanent place of residence at all times after 2008.

Your email also mentions that Dr. Umoren provided you with a Huntsville, Alabama address to serve him with legal papers. For edification, the Huntsville address he gave you is an office (not residence) address and he also told you the appropriate place to serve him legal papers would be at the address of his permanent residence in Nigeria.

Your email states that “[a]ll available employment information, credit information, deposition testimony, and other legal filings show that Dr. Umoren was domiciled in the State of Alabama at all relevant times in this case.” If we have missed anything (other than the fact that he has sporadically worked in Alabama at times since 2008), please provide us that information and we will be happy to consider it.

In summary, without any supporting evidence, you are requesting us to adopt an unsubstantiated position that Dr. Umoren was domiciled in the State of Alabama in August 2012, which is clearly contrary to his testimony and all the facts known to us. If you do seek to remand the case in light of the undisputed facts, we will seek our costs to contest the remand.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Charles A. McCallum, III
CAM/lm

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cc: LaBella S. Alvis
R. Jordan Wood
Eric D. Hoaglund