

United States Court of Appeals
For the Eighth Circuit

No. 23-1476

Sharllette Berry

Plaintiff - Appellant

v.

Capella University, LLC

Defendant - Appellee

Appeal from United States District Court
for the Eastern District of Arkansas - Central

Submitted: December 14, 2023

Filed: December 28, 2023

[Unpublished]

Before LOKEN, SHEPHERD, and KOBES, Circuit Judges.

PER CURIAM.

In this diversity action, Sharllette Berry appeals the district court's¹ dismissal of her civil action against Capella University. After de novo review, see

¹The Honorable D.P. Marshall Jr., Chief Judge, United States District Court for the Eastern District of Arkansas.

Christopherson v. Bushner, 33 F.4th 495, 499 (8th Cir. 2022) (reviewing Fed. R. Civ. P. 12(b)(6) dismissal de novo); Ascente Bus. Consulting, LLC v. DR myCommerce, 9 F.4th 839, 844 (8th Cir. 2021) (reviewing futility-based denial of leave to amend de novo); we agree with the district court that Berry did not plead her fraud claim with the specificity required by Federal Rule of Civil Procedure 9(b), see Ascente, 9 F.4th at 845 (party alleging fraud must state with particularity circumstances constituting fraud, including who, what, where, when, and how). We also conclude Berry failed to plead facts demonstrating her entitlement to relief under the Arkansas Deceptive Trade Practices Act. See Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (labels and threadbare recitals of elements supported by conclusory statements is insufficient to show entitlement to relief).

Accordingly, we affirm, see 8th Cir. R. 47B, and deny as moot Capella University's motion to supplement the record.
