

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

MELVIN BALDUF,

Plaintiff,

v.

Case No: 2:18-cv-504-FtM-99MRM

WAL-MART STORES INC. and
JOHN DOE,

Defendants.

ORDER¹

This matter comes before the Court on Plaintiff's Unopposed Motion to Remand ([Doc. 5](#)) filed on July 23, 2018. Plaintiff, Melvin Balduf, seeks to amend his Complaint to join Ivette Ramos, a Florida citizen, as a party Defendant. The addition of Ramos would destroy diversity jurisdiction.

Pursuant to [Federal Rule of Civil Procedure 15\(a\)\(2\)](#), the Court "should freely give leave when justice so requires." Here, the request for leave to amend was filed shortly after the case was removed, and Defendant does not oppose the amendment. The Court is inclined to grant the request to amend, however, no proposed amended complaint was submitted in compliance with Local Rule 4.01. Therefore, the Court will deny the Motion at this time without prejudice. Once an amended complaint is submitted that shows there

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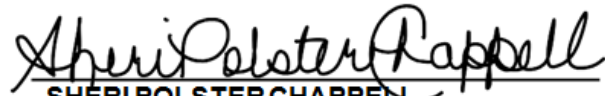
is no diversity jurisdiction over this case, this matter may be remanded for lack of subject matter jurisdiction. See [28 U.S.C. § 1447\(e\)](#) (“[i]f after removal the plaintiffs seeks to join additional defendants whose joinder would destroy subject matter jurisdiction, the court may deny joinder, or permit joinder and remand the action to the State court”).

Accordingly, it is now

ORDERED:

Plaintiff’s Unopposed Motion to Remand ([Doc. 5](#)) is **DENIED without prejudice**.

DONE and **ORDERED** in Fort Myers, Florida this 23rd day of July, 2018.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record