

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 13 2018

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

GINA TAYLOR,

Plaintiff - Appellee,

v.

WAL-MART ASSOCIATES, INC., a
Delaware corporation,

Defendant - Appellant.

No. 17-56218

D.C. No.

EDCV 17-01021 SJO (AJWx)

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
S. James Otero, District Judge, Presiding

Submitted December 7, 2018**
Pasadena, California

Before: IKUTA and N. R. SMITH, Circuit Judges, and STEEH,*** District Judge.

The district court remanded this action *sua sponte* based upon a perceived

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

*** The Honorable George Caram Steeh III, Senior United States District Judge for the Eastern District of Michigan, sitting by designation.

procedural shortfall, despite the fact that the court acknowledged it had diversity jurisdiction, the amount in controversy exceeded the jurisdictional amount, and Plaintiff did not file a motion to remand. Plaintiff does not challenge the appeal of the district court order. The district court “exceeded its authority under 28 U.S.C. § 1447(c) by remanding *sua sponte* based on a non-jurisdictional defect.” *Corona-Contreras v. Gruel*, 857 F.3d 1025, 1030 (9th Cir. 2017). *See also Kenny v. Wal-Mart Stores, Inc.*, 881 F.3d 786, 789-90 (9th Cir. 2018) (“[T]he district court exceeded its statutory authority in remanding *sua sponte* on a non-jurisdictional ground, and its order warrants reversal for this reason alone.”). VACATED AND REMANDED.