

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

TAMERA GOERS and ASHLEY  
CRISTINE MULLIGAN, individually, and  
on behalf of all others similarly situated

Plaintiffs,

v.

Case No: 2:15-cv-412-FtM-99CM

L.A. ENTERTAINMENT GROUP,  
INC. and AMER SALAMEH,

Defendants.

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**ORDER**<sup>1</sup>

This matter comes before the Court on *sua sponte* review of the Defendants' Answer, Affirmative Defenses and Counterclaim ([Doc. #25](#)). Paragraph 10 of Defendants' Counterclaim for unjust enrichment states "[i]f Counterclaim Defendants are successful in their claims that they were employees, they will be unjustly enriched . . . ." This is problematic because "[a] claim is not ripe for adjudication if it rests upon contingent future events that may not occur as anticipated, or indeed may not occur at all." [Texas v. United States, 523 U.S. 296, 300 \(1998\)](#). Thus, Defendants Counterclaim is not ripe if it is contingent on a future event, such as a loss to Plaintiffs on their Fair Labor Standards Act collective action claim. Notably, "[r]ipeness is a question of subject-matter

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jurisdiction.” *Reahard v. Lee County*, 978 F.2d 1212, 1213 (11th Cir. 1992). Moreover, Federal Rule of Civil Procedure 12(h)(3) states that “[i]f the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.” Consequently, the Court will allow Defendants until December 30, 2016, to establish the ripeness of their Counterclaim, and thus, the Court’s jurisdiction.

Accordingly, it is now

**ORDERED:**

Defendants L.A. Entertainment Group, Inc. and Amer Salameh shall **SHOW CAUSE**, in writing, on or before **December 30, 2016**, as to why their Counterclaim should not be dismissed for lack of ripeness. Failure to comply with this Order may result in their Counterclaim being dismissed without further notice.

**DONE** and **ORDERED** in Fort Myers, Florida, this 22nd day of December, 2016.

  
**SHERI POLSTER CHAPPELL**  
**UNITED STATES DISTRICT JUDGE**

Copies: All Parties of Record