

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

CLINTON S. WEEKS,

Plaintiff,

v.

Case No. 6:17-cv-1099-Orl-37TBS

STATE FARM MUTUAL
AUTOMOBILE INSURANCE
COMPANY; and BRIAN HEANY

Defendants,

ORDER

Defendant State Farm Mutual Automobile Insurance Company (“**State Farm**”) previously removed this action, invoking the Court’s diversity jurisdiction. (Doc. 1 (“**Notice of Removal**”).) In the Notice of Removal, State Farm claims that Plaintiff fraudulently joined Brian Heany (“**Mr. Heany**”) as a Defendant to prevent removal. (*Id.* ¶ 6.) As support, State Farm points to: (1) the lack of service on Mr. Heany; and (2) a release signed by Plaintiff, which encompasses the claim asserted against Mr. Heany in the instant action. (*Id.* ¶¶ 5-8; *see also* Doc. 1-4 (“**Release**”); Doc. 2 (“**Complaint**”).) Importantly, the Release predates the initiation of this suit. (*Compare* Doc. 1-4 (releasing Mr. Heany from all claims arising from a November 4, 2015 car accident, signed March 1, 2017), *with* Doc. 2, ¶¶ 7-13 (asserting a negligence claim against Mr. Heany based on a November 4, 2015 accident, signed March 24, 2017).)

In light of the foregoing, the Court issued an Order directing Plaintiff to show

cause: (1) whether he intends to effect service on Mr. Heany; (2) why Mr. Heany was named as a party following execution of the Release; and (3) why Mr. Heany should not be dismissed as a party to this action. (Doc. 10.) In his response, Plaintiff represents that: (1) he does not intend serve Mr. Heany; (2) Mr. Heany was inadvertently included in the Complaint as a result of miscommunication by Plaintiff's counsel; and (3) Mr. Heany should be dismissed as a party to this action without prejudice. (Doc. 16.)

Accordingly, based on Plaintiff's representations, it is **ORDERED AND ADJUDGED** as follows:

1. The Clerk is **DIRECTED** to **TERMINATE** Defendant Brian Heany as a party to this action.
2. The Court's Show Cause Order dated July 18, 2017, is **DISCHARGED**.

DONE AND ORDERED in Chambers in Orlando, Florida, on July 25, 2017.




ROY B. DALTON JR.
United States District Judge

Copies to:
Counsel of Record