

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 08-80398-CIV-RYSKAMP/VITUNAC

PETER MILANESE, as Personal
Representative (appointed or to be
appointed) of the ESTATE OF
CHRISTOPHER MILANESE,

Plaintiff,

v.

THE CITY OF BOCA RATON,
FLORIDA,

Defendant.

_____ /

ORDER GRANTING MOTION TO REMAND

THIS CAUSE comes before the Court pursuant Plaintiff's Motion to Remand to State Court, filed August 26, 2008 [**DE 20**]. The original Complaint, filed in the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida, asserted two counts, one pursuant to 42 U.S.C. § 1983, and one pursuant to common law negligence. Defendant removed this action to this Court on the basis of federal question jurisdiction. On August 20, 2008, the Court dismissed the entire action without prejudice.

Plaintiff has filed a Amended Complaint that contains only a common law negligence count. If the Court wishes, it may exercise supplemental jurisdiction over this claim pursuant to 28 U.S.C. § 1367(a). The Court's exercise of supplemental jurisdiction is discretionary, however. 28 U.S.C. § 1367(c)(3) ("The district court may decline to exercise supplemental jurisdiction over a claim under subsection (a) if...the district court has dismissed all claims over which it has original jurisdiction."). The Court, having dismissed the 42 U.S.C. § 1983 claim,

hereby declines to exercise jurisdiction over the state law negligence claim. Accordingly, it is hereby

ORDERED AND ADJUDGED that the Motion to Remand to State Court, filed August 26, 2008 [**DE 20**], is GRANTED. The Clerk of Court shall CLOSE this case deny any pending motions as MOOT.

DONE AND ORDERED at Chambers in West Palm Beach, Florida this 12th day of September, 2008.

S/Kenneth L. Ryskamp
KENNETH L. RYSKAMP
UNITED STATES DISTRICT JUDGE