

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JOSHUA KIEFER,

Plaintiff,

v.

Case No. 17-cv-1196-JPG-RJD

MAINSTREAM HOLDINGS, INC.,
PREMIER OUTDOOR EQUIPMENT d/b/a
Big Game Treestands, GLOBAL
MANUFACTURING, LLC, and CABELA'S
RETAIL IL, INC.,

Defendants.

MEMORANDUM AND ORDER

This matter comes before the Court following its November 7, 2017, order for plaintiff Joshua Kiefer to show cause why the Court should not find that defendant Cabela's Retail IL, Inc. has been fraudulently joined in this case, disregard its Illinois citizenship (which it shares with Kiefer), dismiss it from this case, and continue to exercise diversity subject matter jurisdiction in this matter (Doc. 11). Kiefer has responded to the order to show cause by asking the Court to allow him to voluntarily dismiss Cabela's Retail IL, Inc. without prejudice and to file an amended pleading substituting Cabela's Wholesale, Inc. (Doc. 13). The three properly joined defendants have no objection to dismissal of Cabela's Retail IL, Inc. or to the substitution of Cabela's Wholesale, Inc., which as a citizen of Nebraska poses no threat to the Court's diversity jurisdiction (Doc. 18).

The Court **DISCHARGES** its November 7, 2017, order to show cause (Doc. 11). It further construes Kiefer's motion to dismiss and to substitute parties as an admission that Cabela's Retail IL, Inc. was, indeed, fraudulently joined in this case in that it has no connection with the events giving rise to this case. Accordingly, the Court disregards the citizenship of

Cabela's Retail IL, Inc. for purposes of determining diversity jurisdiction and **DISMISSES** it from this case **without prejudice**. In the absence of any objection from the remaining defendants and in accordance with 28 U.S.C. § 1447(e) and Federal Rule of Civil Procedure 15(a), the Court **GRANTS** Kiefer's motion to amend his pleading to substitute Cabela's Wholesale, Inc. as a defendant (Doc. 13). He shall have seven days to electronically file his amended pleading. Kiefer is directed to consult Local Rule 15.1 regarding amended pleadings and need not seek further leave of Court to file such amended pleading. Cabela's Retail IL, Inc. is terminated as a party in this case.

IT IS SO ORDERED.

DATED: December 5, 2017

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE