

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

JERMON WILSON

CIVIL ACTION

VERSUS

NO. 14-1076

UNITED STATES POSTAL SERVICE

SECTION "H"(5)

ORDER

Before the Court is Defendant's Motion to Dismiss for Lack of Subject Matter Jurisdiction. Plaintiff, Jermon Wilson, filed a petition against the United States Postal Service (USPS) in the Civil District Court for the Parish of Orleans. After removing this action to federal court, Defendant argues that pursuant to the Federal Tort Claims Act (FTCA) the proper party in this action is the United States of America. Defendant has also moved to dismiss this action for lack of subject matter jurisdiction on the grounds that Plaintiff did not exhaust his administrative remedies with the USPS prior to filing his suit in state court. Pursuant to the attached letter from Plaintiff's counsel, Plaintiff

expressly declined to oppose Defendant's Motion to Dismiss.

This Court agrees with Defendant. The FTCA requires that plaintiffs seeking recovery under the Act submit an administrative claim to the relevant federal agency prior to filing suit.¹ Because Plaintiff did not file an administrative claim with the USPS prior to filing this suit, this Court lacks subject matter jurisdiction to hear the action.² Therefore, the Court is bound to dismiss this matter without prejudice. Plaintiffs are free to re-file this suit following adjudication of the administrative claim.

Accordingly;

IT IS ORDERED that the Motion to Dismiss (Doc. 8) is **GRANTED** and this matter is **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction.

New Orleans, Louisiana, this 5th day of November, 2014.



JANE TRICHE MILAZZO
UNITED STATES DISTRICT JUDGE

¹ 28 U.S.C. § 2675(a).

² *Gregory v. Mitchell*, 634 F.2d 199, 203–04 (5th Cir. 1981).