

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

JOEL FRANZ, SR., ET UX

CIVIL ACTION

VERSUS

WAL-MART STORES, INC., ET AL

NO. 10-226-BAJ-M2

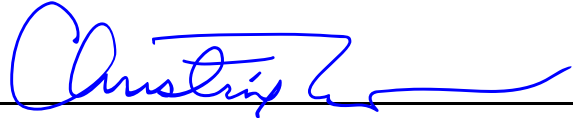
NOTICE

Please take notice that the attached Magistrate Judge's Report has been filed with the Clerk of the United States District Court.

In accordance with 28 U.S.C. § 636(b)(1), you have 14 days from the date of service of this Notice to file written objections to the proposed findings of fact and conclusions of law set forth in the Magistrate Judge's Report. The failure of a party to file written objections to the proposed findings, conclusions, and recommendation contained in a Magistrate Judge's Report and Recommendation within 14 days after being served with a copy of the Report shall bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions of the Magistrate Judge that have been accepted by the District Court.

ABSOLUTELY NO EXTENSION OF TIME SHALL BE GRANTED TO FILE WRITTEN OBJECTIONS TO THE MAGISTRATE JUDGE'S REPORT.

Signed in chambers in Baton Rouge, Louisiana, December 6, 2010.



MAGISTRATE JUDGE CHRISTINE NOLAND

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

JOEL FRANZ, SR., ET UX

CIVIL ACTION

VERSUS

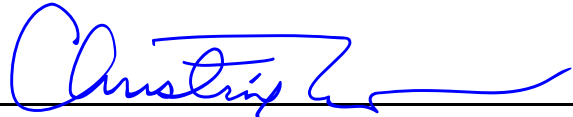
WAL-MART STORES, INC., ET AL

NO. 10-226-BAJ-M2

MAGISTRATE JUDGE'S REPORT

For the reasons discussed in the Ruling & Order issued this date concerning the Motion and Order to File Supplemental and Amended Complaint in Accordance with Fed. R. Civ. P. 15(a)(1)(B) (R. Doc. 9) filed by plaintiffs, Joel and Belinda Franz, it is recommended that this matter be **REMANDED** to the 19th Judicial District Court, Parish of East Baton Rouge, State of Louisiana, for further proceedings. Specifically, the undersigned's Ruling & Order permits plaintiffs to amend their complaint to substitute the actual name of a defendant who was fictitiously named in the original petition and whose citizenship is non-diverse to that of the plaintiffs. As a result, complete diversity of citizenship among the parties is now lacking in this matter, and the case should be remanded to state court due to a lack of subject matter jurisdiction.¹

Signed in chambers in Baton Rouge, Louisiana, December 6, 2010.



MAGISTRATE JUDGE CHRISTINE NOLAND

¹ Since a district court is required to remand any action over which it has no subject matter jurisdiction at any time before final judgment, this Court may remand an action *sua sponte* for lack of subject matter jurisdiction. 29A Fed.Proc., L.Ed. §69:128 (2010)(citing cases, including *Merkel v. Federal Exp. Corp.*, 886 F.Supp. 561 (N.D.Miss. 1995).