UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

JAMES J. BRADDOCK and ROBERT MCCUTCHEON Plaintiffs, v. WAL-MART STORES EAST, LP, and CHRISTOPHER SACRAMONE, Defendants.	C.A. No. 16-526

ORDER

WILLIAM E. SMITH, Chief Judge.

Before the Court is Defendant Christopher Sacramone's Motion to Dismiss. (ECF No. 9.) For the reasons set forth below, the Defendant's motion is DENIED without prejudice.

Plaintiff James Braddock ("Plaintiff") previously worked for Defendant Wal-Mart Stores East, LP ("Wal-Mart") under the supervision of Defendant Sacramone. Plaintiff alleges various forms of discrimination by Defendants Wal-Mart and Sacramone, including violations of the Rhode Island Fair Employment Practices Act (Counts I-VI), the Rhode Island Civil Rights Act of 1990 (Counts VII-XI), and the Rhode Island Whistleblowers Protection Act (Count XII). (See Compl. 6-10, ECF No. 1-1.) Defendant Sacramone moves to dismiss the Complaint on two grounds. First, Defendant Sacramone argues that he was

improperly joined because he has not been identified in any of the counts in the Complaint. Second, Defendant Sacramone argues that the statutes cited by Plaintiff provide only for employer liability, not liability for an individual employee.

A review of the Complaint reveals that Plaintiff included Defendant Sacramone in the case caption and provided allegations against Defendant Sacramone in the "Facts" section of the Complaint. However, Defendant Sacramone is correct that the Complaint does not make clear which counts are alleged against Defendant Sacramone. In response to this issue, Plaintiff has requested leave to amend the Complaint to make clear under which counts Defendant Sacramone has been included. (Pl.'s Resp. 3, ECF No. 10.)

The Court will "freely give leave" for a party to amend their complaint whenever "justice so requires." Fed. R. Civ. P. 15(a)(2). The Court therefore provides Plaintiff with 14 days to amend the Complaint in order to make clear under which counts Defendant Sacramone is included.[1] Once Plaintiff has amended the Complaint, Defendant Sacramone may re-submit his Motion to

[1] Given the allegations in this case, the Court brings to Plaintiff's attention the recent Rhode Island Supreme Court holding in Mancini v. City of Providence, No. 2014-88, 2017 WL 924178 (R.I. Mar. 8, 2017), which held that the Rhode Island Fair Employment Practices Act does not provide for individual liability for an employee of a defendant employer.

Dismiss, if necessary. Defendant's Motion to Dismiss (ECF No. 9) is DENIED without prejudice.

IT IS SO ORDERED.

William E. Smith
Chief Judge
Date: April 5, 2017