

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

JAMES KEY,

Plaintiff,

v.

WALMART,

Defendant.

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Civil Action No. 4:14-cv-538-O

**ORDER ACCEPTING, IN PART, FINDINGS, CONCLUSIONS, AND
RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made findings, conclusions and a recommendation in this case. No objections were filed.¹ The District Court reviewed the proposed findings, conclusions and recommendation for plain error. The Court **ACCEPTS** the Findings, Conclusions and Recommendations of the United States Magistrate Judge, except for the recommendation that this case be dismissed with prejudice. Dismissals for lack of jurisdiction are without prejudice. *See ITL Intern., Inc. v. Café Soluble, S.A.*, 464 F. App'x 241, 244 (5th Cir. 2012).

¹ On September 22, 2014, Plaintiff filed an Amended Complaint (ECF No. 9). The Court does not construe the Amended Complaint as an objection to the Magistrate Judge's Findings, Conclusions, and Recommendation ("FCR"). Even if the Court construed Plaintiff's Amended Complaint as an objection, it fails to cure the defects listed in the FCR. On the Civil Cover Sheet, Plaintiff alleges that he is a citizen of Texas, but fails to allege the citizenship of Defendant. Pl.'s Am. Compl. 3, ECF No. 9. Further, Plaintiff does not allege any amount in controversy. *Id.* at 1-3. Plaintiff has failed to establish a basis for this Court's subject-matter jurisdiction. *See* Fed. R. Civ. P. 12(b)(1); 28 U.S.C. § 1332.

Accordingly, it is **ORDERED** that the Findings, Conclusions, and Recommendation of the United States Magistrate Judge are accepted, except that the above-styled suit is hereby **dismissed without prejudice** for lack of subject-matter jurisdiction.

SO ORDERED on this **25th day of September, 2014.**


Reed O'Connor
UNITED STATES DISTRICT JUDGE