

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

WILLIAM M. WINDSOR,)	
)	
Plaintiff,)	
)	
v.)	No. 13-CV-00778-DW
)	
ALLIE LORAIN YAGER OVERSTREET,)	
et al.,)	
)	
Defendants.)	

ORDER

Pending before the Court is the pro se Plaintiff William M. Windsor’s (the "Plaintiff") Motion for Remand (the "Motion"). See Doc. 4. The Defendant Allie Overstreet ("Overstreet") filed a response in opposition (Doc. 6), and the Plaintiff has not filed a reply brief.

The Plaintiff argues that this case was not properly removed because his Petition does not assert a claim under federal law and because Overstreet is a resident of Missouri. Overstreet concedes both points. Under these circumstances, remand is required.

In particular, Overstreet expressly relies on diversity jurisdiction, but it is well-settled that "a federal court lacks diversity jurisdiction over a removed case in which one of the defendants is a citizen of the forum state." Perfect Output of Kansas City, LLC v. Ricoh Americas Corp., 2012 WL 2921852, at * 1 (W.D. Mo. July 17, 2012); 28 U.S.C. § 1441(b)(2); see also Horton v. Conklin, 431 F.3d 602, 604 (8th Cir. 2005) ("Under the so-called ‘forum defendant rule,’ a non-federal question case ‘shall be removable only if none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.’"). Because Overstreet is a

citizen of Missouri, the Court lacks diversity jurisdiction.¹

Consequently, it is hereby ORDERED that:

(1) the Plaintiff's Motion for Remand (Doc. 4) is GRANTED; and

(2) this case is remanded to the Circuit Court of Lafayette County, Missouri. The Clerk of this Court is directed to mail a certified copy of this Order to the Clerk of the Circuit Court of Lafayette County, Missouri, as required by 28 U.S.C. § 1447(c). The Clerk of this Court shall terminate any pending motions, and shall then mark this case as closed.

IT IS SO ORDERED.

Date: September 13, 2013

/s/ Dean Whipple
Dean Whipple
United States District Judge

¹ Under 28 U.S.C. § 1441(b)(1), fictitious defendants—such as the John Doe Defendants named by Plaintiff—“shall be disregarded” for purposes of determining diversity jurisdiction.