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UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
WISCONSIN  
(Milwaukee Division)

EASTERN DISTRICT COURT  
DISTRICT-WI  
FILED

WILLIAM M. SCHMALFELDT, SR.  
Plaintiff pro se,  
v.  
SARAH PALMER, ET AL.,  
Defendants

Case No. 2:15-cv-01516-NJ  
APR -4 P 12:22  
PLAINTIFF'S MOTION TO WITHDRAW  
MOTION LEAVE TO FILE SECOND  
AMENDED COMPLAINT  
RECORDED - CLERK

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NOW COMES Plaintiff William M. Schmalfeldt Sr. to request the Court's permission to withdraw an erroneously filed motion for leave to file a second amended complaint and to request the Court to relax its moratorium on new motions to allow for the proper filing of a motion for leave to file a Second Amended Complaint for reasons outlined below.

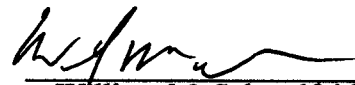
1. Plaintiff is cognizant of this Court's order for a moratorium on filings until the issue of the Defendants' Joint Motion for Dismissal is ruled upon. When the Court ruled on its filing moratorium, the honorable judge said she did not wish to entertain any further motions unless they contained information the Court needed to know. Plaintiff believes the information he intends to submit in the form of his Second Amended Complaint meets that requirement and will clear the waters and make this case easier to decide.
2. Plaintiff mistook the Court's ORDER of March 31, 2016 as leave to resume filing motions and mistakenly mailed the above-mentioned Motion on the morning of April 1.
3. Plaintiff will properly file a motion for leave to file a Second Amended Complaint upon being granted permission by the court as the SAC will contain information vital to the court's decision-making process in whether or not to dismiss the case in chief. Plaintiff plans to add a new defendant and remove the John Doe/Jane Roe defendants from the case caption. This will moot Defendants' assertion that full diversity cannot be established for subject matter

jurisdiction as Plaintiff lives in Wisconsin, the current defendants live in North Carolina and Tennessee and the proposed added defendant lives in Illinois.

4. There will be no prejudice to naming this additional defendant to a Second Amended Complaint as it was always Plaintiff's intent to add this defendant to the complaint upon ascertaining his identity.

WHEREFORE in the interest of clarity and a finding based on the merits of the case, Plaintiff moves this honorable Court to allow him to withdraw his mistakenly filed motion for leave to file a Second Amended Complaint. Furthermore, Plaintiff asks the Court to withhold its decision on whether or not to grant Defendants' Motion to Dismiss until the Court has had a chance to review a Second Amended Complaint, which Plaintiff will file as it contains information this honorable court will need to clear the waters and come to a decision as to whether or not to grant Defendants' Motion to Dismiss.

Respectfully submitted this 1<sup>st</sup> day of April, 2016.



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*Pro Se Plaintiff*

#### **CIVIL L. R. 7(A)(2) CERTIFICATION**

In compliance with Civil L. R. 7(a)(2), I certify that no separate supporting memorandum or other supporting papers except those already attached will be filed in relation to this motion.

#### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of this pleading has on this day been sent by e-mail under a joint agreement to Aaron J. Walker, currently serving as Defendant's Attorney.



William M. Schmalfeldt, Sr.  
*Pro Se Plaintiff*