

Plaintiff's response to the Court's show cause order reveals that the parties are near settlement, but does not establish jurisdiction. Plaintiff asks this Court to refrain from dismissing the action pending the parties' filing of a stipulation of dismissal. The Court, however, cannot overlook the immediate defect with respect to subject matter jurisdiction. Indeed, the Court has an independent duty to investigate its subject matter jurisdiction at any point in the proceeding. See Tuck v. United Servs. Auto. Ass'n, 859 F.2d 842, 844 (10thCir. 1988). Because the Court is not satisfied that it has subject matter jurisdiction, it finds that the complaint should be dismissed without prejudice. If the parties are close to resolving their dispute, one may

hope that further litigation will be unnecessary.

IT IS SO ORDERED.

Dated this 8th day of November, 2006 at Kansas City, Kansas.

s/ Kathryn H. Vratil
Kathryn H. Vratil
United States District Judge