

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MICHAEL L. DORROUGH,

Plaintiff,

v.

ETHEL G. DENTON and FIRST
AMERICAN TITLE INSURANCE COMPANY,

Defendants.

OPINION AND
ORDER

00-C-639-C

Plaintiff Michael L. Dorrough has filed a complaint seeking monetary and injunctive relief for claims arising under state law relating to the purchase of property from defendant Ethel Denton. Plaintiff is proceeding pro se and has paid the \$150 filing fee. With his complaint, plaintiff has filed a motion for a change of jurisdiction and appears to be attempting to remove case 98-CV-1055 that he filed in Dane County Circuit Court. To the extent that plaintiff is attempting to remove a case he filed in state court, the removal is improper because only defendants may remove and because this court does not have subject matter jurisdiction over plaintiff's claims. See 28 U.S.C. § 1441. The proper procedure for a plaintiff who wishes to move a case from state to federal court is to dismiss the state action and re-file the action in

federal court.

Assuming that plaintiff has dismissed his state action, this complaint must be dismissed for several reasons. First, plaintiff has not signed his complaint. This is in violation of Fed. R. Civ. P. 11(a) which states that “[a]n unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.” Second, even if plaintiff were to sign the complaint, it would still be dismissed for lack of subject matter jurisdiction. Plaintiff alleges claims for breach of contract, fraud and misrepresentation, promissory estoppel, interference with property rights, slander of title, breach of contract, breach of covenant of good faith and fair dealing and tortious bad faith. Because plaintiff asserts no federal cause of action, this court does not have jurisdiction of the case under 28 U.S.C. § 1331. (In his brief in support of his motion for change of jurisdiction, plaintiff cites the Americans with Disabilities Act. No claim under that statute is made in the complaint and plaintiff’s argument that he is injured under the act because defendants “have placed an insurmountable impediment in the way of the implementation of a radio station/production facility serving [visually impaired and blind persons],” Br. at 12, is legally frivolous.) This court does not have diversity jurisdiction under 28 U.S.C. § 1332 because plaintiff and defendant First American are both citizens of California.

ORDER

IT IS ORDERED THAT this action is DISMISSED for lack of subject matter jurisdiction.

Entered this 26th day of October, 2000.

BY THE COURT:

BARBARA B. CRABB
District Judge