

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

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JOHN BETANCOURT,

Plaintiff,

v.

TIMOTHY SWINGEN,  
ECONOMY PREMIER ASSURANCE  
COMPANY, WHITE THUNDER  
RIDERS, INC. and GENERAL CASUALTY  
COMPANY OF WISCONSIN,

Defendants.

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ORDER

04-C-0056-C

This is a civil action arising out of an accident involving two snowmobiles. Plaintiff John Betancourt alleges that he was injured as a result of the negligence of defendant Timothy Swingen. Jurisdiction is alleged to exist through diversity of citizenship. 28 U.S.C. § 1332.

The case is before the court of the motion of defendant Economy Premier Assurance Company to dismiss the complaint. Defendant contends that it has no duty to defend or indemnify defendant Timothy Swingen under the policy of homeowners' insurance it issued to his parents, Terrence and Cheryl Swingen. Also pending is Economy's motion for default

judgment on its counterclaim against plaintiff and its cross-claim against defendant Swingen.

Before I can reach either of defendant's motions, an obstacle looms. Originally, plaintiff sued "MetLife Auto and Home Insurance Co.," alleging it to be a citizen of Wisconsin. Defendant Economy answered the complaint, stating that it had been incorrectly identified as MetLife. Unfortunately for plaintiff's efforts to sue in federal court, Economy is a citizen of Illinois, which is also the state of plaintiff's citizenship. With Economy's entry into the case, diversity jurisdiction ceased to exist and this court lost its authority to take any action in this case.

#### ORDER

IT IS ORDERED that this case is DISMISSED on the court's own motion for lack of subject matter jurisdiction.

Entered this 3rd day of August, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge