

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

MARK R. TESMER,

Plaintiff,

v.

CHARTER FILMS, INC.,

Defendant.

ORDER

05-C-309-C

In this civil action for monetary relief, plaintiff Mark R. Tesmer is suing defendant Charter Films, Inc. for breach of contract. Plaintiff contends that defendant failed to repurchase his stock shares according to the terms of the parties' stock repurchase agreement. Plaintiff invokes this court's diversity jurisdiction under 28 U.S.C. § 1332. Plt.'s Proposed Findings of Fact, dkt. #2, ¶ 3.

On June 22, 2005, plaintiff submitted a motion for summary judgment. In reviewing defendant's submissions in response to that motion, I noticed a discrepancy in its responses to plaintiff's proposed facts regarding the diversity of the parties. Plaintiff proposes as fact that he is a citizen of Minnesota and that defendant is incorporated under the laws of the state of Wisconsin with its headquarters and principal place of business in Superior,

Wisconsin. Defendant does not dispute these facts. Moreover, the parties agree that the amount in controversy in this lawsuit equals exceeds \$75,000. Nevertheless, defendant disputes plaintiff's conclusion that this court has subject matter jurisdiction under 28 U.S.C. § 1332. In support of its objection, defendant cites its answer to plaintiff's complaint, filed June 17, 2005, in which it contends, "There exists a lack of diversity between plaintiff and Charter Films and, therefore, this court does not have jurisdiction." Dft's. Ans., dkt. #5, ¶ 30.

This court has an independent obligation to insure that subject matter jurisdiction exists. Wild v. Subscription Plus, Inc., 292 F.3d 526 (7th Cir. 2002). Plaintiff bears the burden of establishing federal jurisdiction in this case and has properly alleged facts that support a finding of jurisdiction under 28 U.S.C. § 1332. Chase v. Shop n' Save Warehouse Foods, Inc., 110 F.3d 424, 427 (7th Cir. 1997) ("party seeking to invoke federal diversity jurisdiction bears the burden of demonstrating that the complete diversity and amount in controversy requirements are met."). Although defendant "objects" to a finding of jurisdiction, it has provided no facts to support its contention.

The Court of Appeals for the Seventh Circuit has reiterated the need for litigants to meticulously review the limits of federal jurisdiction to prevent the waste of federal judicial resources. Belleville Catering Co. v. Champaign Market Place, L.L.C., 350 F.3d 691 (7th Cir. 2003). The federal courts are "always obliged to inquire sua sponte whenever a doubt

arises as to the existence of federal jurisdiction.” Tylka v. Gerber Prods. Co., 211 F.3d 445, 447-48 (7th Cir. 2000). Because it would be a waste of limited judicial resources to proceed further in a case where jurisdiction may not be present, I will give defendant one week in which to produce facts supporting its contention that subject matter jurisdiction is lacking or withdraw its argument.

ORDER

IT IS ORDERED that defendant Charter Films, Inc. may have until October 28, 2005, to submit evidence demonstrating a lack of diversity between itself and plaintiff.

Entered this 18th day of October, 2005.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge