

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

JAY J. SCHINDLER,

Plaintiff,

v.

ORDER

05-C-705-C

MARSHFIELD CLINIC, ST. JOSEPH'S
HOSPITAL OF MARSHFIELD, INC., PAUL
L. LISS, ROBERT K. GRIBBLE, DONALD
B. KELMAN, JOHN H. NEAL, RODNEY W.
SORENSEN, TOM FACISZEWSKI, KEVIN
RUGGLES, JAMES P. CONTERATO, FREDERIC
P. WESBROOK, GARY P. MAYEUX, ROBERT
A. CARLSON, DAVID J. SIMENSTAD,
TIMOTHY R. BOYLE, DANIEL G. CAVANAUGH,
GARY R. DEGERMAN, DOUGLAS J. REDING,
and IVAN B. SCHALLER,

Defendants.

This civil action for monetary and injunctive relief was filed in this court on December 1, 2005. The case involves no issue of federal law; therefore, federal jurisdiction can exist only if the parties are completely diverse, Strawbridge v. Curtiss, 2 U.S. 267 (1806), and the amount in controversy equals or exceeds \$75,000. 28 U.S.C. § 1332.

On February 28, 2006, defendants submitted two motions to dismiss claims against them under Fed. R. Civ. P. 12(b)(6). In deciding the motions to dismiss, the court accepts

as true all of the well-pleaded allegations of the complaint. In his complaint, plaintiff alleges that he “is an adult male whose mailing address is P.O. Box 456, Aberdeen, South Dakota.” Cpt., dkt. #2, at 2. In addition, he alleges that defendants Paul Liss, Robert Gribble, Donald Kelman, John Neal, Rodney Sorenson, Tom Faciszewski, Kevin Ruggles, James Conterato, Frederic Wesbrook, Gary Maxeux, Robert Carlson, David Simenstad, Timothy Boyle, Daniel Cavanaugh, Gary Degerman, Douglas Reding and Ivan Schaller reside “in or around the Marshfield, Wisconsin area.” Id. at 2-5. Because “citizenship may differ from residence,” the facts alleged in plaintiff’s complaint are insufficient to establish the parties’ diversity of citizenship. Macken ex rel. Macken v. Jensen, 333 F.3d 797, 799 (7th Cir. 2003).

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). 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).

As the party seeking federal jurisdiction of his claim, plaintiff bears the burden of showing that federal jurisdiction existed at the time his complaint was filed. 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.”). So far, he has not met this burden.

When the allegations of a complaint are defective because of their failure to indicate the citizenship of the parties, plaintiffs must be given an opportunity to “cure [the] potentially curable defect.” Denlinger v. Brennan, 87 F.3d 214, 217 (7th Cir. 1996). Therefore, I will give plaintiff two weeks in which to produce facts verifying his citizenship and the citizenship of defendants Paul Liss, Robert Gribble, Donald Kelman, John Neal, Rodney Sorenson, Tom Faciszewski, Kevin Ruggles, James Conterato, Frederic Westbrook, Gary Maxeux, Robert Carlson, David Simenstad, Timothy Boyle, Daniel Cavanaugh, Gary Degerman, Douglas Reding and Ivan Schaller. Failure to do so will result in the dismissal of this case for lack of subject matter jurisdiction. Id. (“Failure to include the necessary allegations in the complaint, even after an opportunity to amend, usually means dismissal.”)

ORDER

IT IS ORDERED that plaintiff Jay Schindler may have until April 21, 2006, in which to provide this court with verification of the citizenship of himself and defendants. Failure to comply with this deadline will result in the dismissal of the case for lack of subject matter

jurisdiction.

Entered this 7th day of April, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge