

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

JOSHUA J. SAYKALLY,

Plaintiff,

v.

JOHN R. BRANDT, JUSTIN T.
HARKINS, LUCUS J. FICK, NATE
L. ANDERSON, BRADY E. LAWRENCE,
TRICARE DEPT. OF THE ARMY, STATE
FARM FIRE & CASUALTY COMPANY
and GREAT NORTHWEST INSURANCE
COMPANY,

Defendants.

OPINION and ORDER

06-C-195-C

In this civil action for monetary relief, plaintiff Joshua Saykally contends that defendants John R. Brandt, Justin T. Harkins, Lucas J. Fick, Nate L. Anderson and Brady E. Lawrence assaulted him on August 7, 2004, causing him severe injury. Plaintiff has sued the above named defendants along with their insurance companies and has invoked this court's diversity jurisdiction under 28 U.S.C. § 1332.

In an order dated November 14, 2006, I explained that plaintiff had not provided the court with enough information from which I could conclude that he was diverse from each

defendant. Specifically, I noted that he had alleged the residency, and not the citizenship, of plaintiff and defendants John R. Brandt, Justin T. Harkins, Lucas J. Fick, Nate L. Anderson and Brady E. Lawrence. Moreover, I noted that plaintiff alleged only that defendants State Farm Fire & Casualty Company and Great Northwest Insurance Company were “foreign entities” and that defendant Tricare, Department of the Army was a “Kansas entity.” As I explained in the November 14, those factual allegations were insufficient to establish this court’s diversity jurisdiction over the lawsuit. Consequently, I ordered plaintiff to produce facts verifying the diversity of citizenship between himself and each of the named defendants by November 26, 2006.

On November 21, 2006, plaintiff filed a document titled “Plaintiff’s Response to the Court’s Opinion and Order,” dkt. #40, in which plaintiff proposed the following facts: (1) defendants Nate Anderson and Brady Lawrence are citizens of Minnesota and (2) plaintiff is a citizen of Wisconsin. Plaintiff did not provide any information whatsoever regarding the citizenship of defendants State Farm Fire & Casualty Company, Great Northwest Insurance Company and defendant Tricare, Department of the Army, with whom plaintiff alleged it had settled. (Despite that assertion, it is now more two months later and no settlement papers have been signed.)

Now before the court are plaintiff’s motion for default judgment against defendant Anderson and defendant Lawrence’s motion to dismiss plaintiff’s claims against him. Before

I may consider either of those motions, the question of this court's subject matter jurisdiction must be resolved. As I have said before, this court has an independent obligation to meticulously review the limits of federal jurisdiction to prevent the waste of federal judicial resources, Arbaugh v. Y & H Corp., 126 S. Ct. 1235, 1237 (2006); Belleville Catering Co. v. Champaign Market Place, L.L.C., 350 F.3d 691, 693 (7th Cir. 2003), and is "always obliged to inquire . . . 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).

Diversity of citizenship is determined at the time the complaint is filed, not along the way, as plaintiff appears to believe. Just as "[j]urisdiction once acquired . . . is not divested by a subsequent change in the citizenship of the parties," Wichita Railroad & Light Co. v. Public Utilities Commission, 260 U.S. 48, 54 (1922), diversity jurisdiction cannot arise after the filing of the lawsuit, following dismissal of non-diverse parties. See, e.g., Aurora Loan Services, Inc. v. Craddieth, 442 F.3d 1018, 1025 (7th Cir. 2006) (federal jurisdiction determined as of date complaint is filed). Regardless whether settlement has or has not been reached between plaintiff and defendants Brandt, Harkins, Fick, State Farm Fire & Casualty Company, Great Northwest Insurance Company and defendant Tricare, Department of the Army, their citizenship matters. If on the date of filing the parties were not diverse, this court has no jurisdiction over the lawsuit and it must be dismissed.

I will provide plaintiff with one last opportunity to demonstrate that this court has

subject matter jurisdiction. Plaintiff may have until February 9, 2007, in which to provide this court with the complete information requested in the November 14, 2006 order. If, by February 9, 2007, plaintiff has not met his burden of demonstrating that jurisdiction exists under 28 U.S.C. § 1332, the case will be dismissed in its entirety.

ORDER

IT IS ORDERED that plaintiff Joshua Saykally may have until February 9, 2007, to provide this court with verification of the diversity of citizenship between himself and each of the named defendants. Failure to comply with this deadline will result in the dismissal of the case for lack of subject matter jurisdiction.

Entered this 29th day of January, 2007.

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