

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Blanche M. Manning	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	02 C 2963	DATE	June 10, 2002
CASE TITLE	<i>Marvin v. Shell</i>		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

DOCKET ENTRY:

- (1) Filed motion of [use listing in "Motion" box above.]
- (2) Brief in support of motion due _____.
- (3) Answer brief to motion due _____. Reply to answer brief due _____.
- (4) Ruling/Hearing on _____ set for _____ at _____.
- (5) Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) Trial[set for/re-set for] on _____ at _____.
- (8) [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
 FRCP4(m) General Rule 21 FRCP41(a)(1) FRCP41(a)(2).
- (10) [Other docket entry] The court finds that the allegations supporting diversity jurisdiction are insufficient. Accordingly, the court dismisses the complaint, sua sponte, without prejudice. The plaintiff may file an amended complaint, consistent with this order and Rule 11, by no later than July 1, 2002. This means that Ms. Shell's motion for an extension of time to answer or otherwise plead is stricken as moot. (See reverse of minute order).
- (11) [For further detail see order on the reverse side of the original minute order.]

<input type="checkbox"/>	No notices required, advised in open court.		number of notices	Document Number 5
<input type="checkbox"/>	No notices required.		JUN 13 2002 date docketed	
<input checked="" type="checkbox"/>	Notices mailed by judge's staff.		<i>[Signature]</i> docketing deputy initials	
<input type="checkbox"/>	Notified counsel by telephone.		date mailed notice	
<input type="checkbox"/>	Docketing to mail notices.		mailing deputy initials	
<input type="checkbox"/>	Mail AO 450 form.			
<input type="checkbox"/>	Copy to judge/magistrate judge.			
RTS courtroom deputy's initials		Date/time received in central Clerk's Office		

ORDER

Plaintiff Jay Marvin has filed a complaint against Janice Shell /aka JANICE456, John Doe I /aka SCION, and John Doe II /aka SALEMSHEXNY, invoking diversity of citizenship grounds. *See* 28 U.S.C. § 1332. This matter is before the court as Ms. Shell has filed a motion to extend time to answer or otherwise plead. The court notes that the plaintiff appears not to have provided the court with a courtesy copy of its complaint, as the court is seeing this case for the first time today. While clerical error is a possibility, the court reminds all parties to ensure that the court receives a courtesy copy of each and every filing.

With that said, the court turns to the merits. It has reviewed the jurisdictional allegations in the complaint pursuant to *Wisconsin Knife Works v. National Metal Crafters*, 781 F.2d 1280, 1282 (7th Cir. 1986) (“the first thing a federal judge should do when a complaint is filed is check to see that federal jurisdiction is properly alleged”). The plaintiff alleges that he is a citizen of Illinois and that defendant Janice Shell is a citizen of Pennsylvania. So far, so good. *See Guaranty National Title Co., Inc. v. J.E.G. Associates*, 101 F.3d 57, 59 (7th Cir. 1996) (citizenship, not residency, is what matters for diversity jurisdiction, so “[w]hen the parties allege residence but not citizenship, the court must dismiss the suit”). He also alleges, upon information and belief, that defendants John Doe I /aka SCION and John Doe II /aka SALEMSHEXNY are not citizens of Illinois or Pennsylvania.

The allegations as to the John Doe defendants are not enough to establish that diversity jurisdiction exists. First, allegations of citizenship that are made “upon information and belief” are insufficient under Federal Rule of Civil Procedure 11, which imposes a duty of reasonable pre-complaint inquiry on the plaintiff. *Multi-M Int’l, Inc. v. Paige Med. Supply Co.*, 142 F.R.D. 150, 152 (N.D. Ill. 1992), *citing Bankers Trust Co. v. Old Republic Ins. Co.*, 959 F.2d 677, 683 (7th Cir. 1992). Second, the record must affirmatively establish the citizenship of every party, so a complaint must specify the identity and citizenship of each party. *See Guaranty National Title Co. v. J.E.G. Associates*, 101 F.3d at 59. Hence, “unknown defendants (who are necessarily of unknown citizenship) foreclose any possible allegation of total diversity.” *Bryant v. Yellow Freight Systems*, 989 F. Supp. 966, 968 (N.D. Ill. 1997); *see also Wild v. Subscription Plus, Inc.*, No. 01-3406, — F.3d — (7th Cir. May 31, 2002) (“how can the plaintiffs know that the company’s principal place of business is not in Louisiana if they don’t know where its principal place of business is? We doubt that the plaintiffs conducted a census of all businesses whose principal place of business is in Louisiana and discovered that [the defendant] is not one of them”).

Therefore, the court finds that the allegations supporting diversity jurisdiction are insufficient. Accordingly, the court dismisses the complaint, sua sponte, without prejudice. The plaintiff may file an amended complaint, consistent with this order and Rule 11, by no later than July 1, 2002. This means that Ms. Shell’s motion for an extension of time to answer or otherwise plead is stricken as moot.