

Montgomery County, Texas.⁵ Baker is also a Texas citizen.⁶

In July 2019, Baker represented Hoskins in multiple criminal matters in Harris County, Texas and Montgomery County, Texas before withdrawing from representation.⁷

On March 2, 2022, Hoskins sued Baker in this Court to recover unearned legal fees paid to Baker totaling \$16,000, using the form *Pro Se* Complaint for a Civil Case.⁸ Section II of the form requires the plaintiff to select the basis for federal court jurisdiction.⁹ Hoskins checked federal question, but left blank the subsection for listing “the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.”¹⁰ Conversely, Hoskins did not check diversity of citizenship, yet completed the subsection for supplying facts supporting diversity of citizenship jurisdiction.¹¹

2. *Subject Matter Jurisdiction.*

This Court may hear only those cases authorized by a federal statute, the United States Constitution, or a United States treaty.¹² The plaintiff must overcome an initial presumption that the federal court lacks subject-matter

⁵ *Id.* at 2.

⁶ *Id.* at 4.

⁷ *Id.* at 4–5.

⁸ *See generally* [Doc. 1].

⁹ *Id.* at 3.

¹⁰ *Id.*

¹¹ *Id.* at 3–4.

¹² *Badgerow v. Walters*, 212 L. Ed. 2d 355, 142 S. Ct. 1310, 1315–16 (2022) (citing *Kokkonen v. Guardian Life Ins.*, 511 U.S. 375, 377 (1994)).

jurisdiction.¹³ Subject matter jurisdiction generally arises under federal-question jurisdiction or diversity of citizenship jurisdiction.

Federal-question jurisdiction exists when an action arises under the Constitution, laws, or treaties of the United States.¹⁴ A federal court has diversity jurisdiction when the suit involves a controversy between parties of diverse citizenship and the amount in controversy exceeds \$75,000.¹⁵

As Baker's motion to dismiss challenges the sufficiency of the allegations of jurisdiction, it is a facial attack, and the Court can dismiss for lack of subject-matter jurisdiction based on the complaint alone.¹⁶ The Court accepts all material allegations in the complaint as true and construes them in the light most favorable to the nonmovant.¹⁷ Because the complaint raises both bases for subject matter jurisdiction, federal-question jurisdiction and diversity of citizenship jurisdiction will both be addressed in turn.

A. *Federal-Question Jurisdiction.*

A case arises under federal law if a well-pleaded complaint establishes that either (1) federal law creates the cause of action or (2) the plaintiff's right to relief necessarily depends on the resolution of a substantial question of federal law.¹⁸ Hoskins's complaint is based on services performed or to be performed

¹³ *Howery v. Allstate Ins.*, 243 F.3d 912, 916 (5th Cir. 2001).

¹⁴ U.S. Const. art 3, § 1; 28 U.S.C. § 1331.

¹⁵ 28 U.S.C. § 1332(a).

¹⁶ *See Constitution Party of Pa. v. Aichele*, 757 F.3d 347, 357 (3rd Cir. 2014); *see also Williamson v. Tucker*, 645 F.2d 404, 413 (5th Cir. 1981).

¹⁷ *Id.* at 356 n.12; *see also Scheuer v. Rhodes*, 416 U.S. 232, 236 (1976), *overruled on other grounds, Harlow v. Fitzgerald*, 457 U.S. 800 (1982).

¹⁸ *Empire Healthchoice Assur., Inc. v. McVeigh*, 547 U.S. 677, 689–90 (2006); *see also Singh v. Duane Morris, LLP*, 538 F.3d 334, 337–38 (5th Cir. 2008).

exclusively in Texas.¹⁹ This is a contract claim,²⁰ a state-law claim.²¹ There are no implications of federal preemption or interstate commerce.²² This case does not present a federal question, and jurisdiction does not exist on that basis.

B. Diversity of Citizenship Jurisdiction.

Diversity of citizenship jurisdiction exists when the suit involves a controversy between parties of diverse citizenship and the amount in controversy exceeds \$75,000.²³

Both Hoskins and Baker are Texas citizens, and the amount in controversy is \$18,000, far below the \$75,000 amount in controversy requirement.²⁴ Therefore, there is no diversity of citizenship, and the amount in controversy requirement has not been met. Jurisdiction cannot be sustained based on diversity of citizenship.

¹⁹ [Doc. 1] at 2.

²⁰ *Id.*

²¹ *Skelly Oil Co. v. Phillips Petroleum Co.*, 339 U.S. 667, 672 (1950) (contract claims, alone, do not create federal question jurisdiction).

²² See *Mem'l Hosp. Sys. v. Northbrook Life Ins. Co.*, 904 F.2d 236, 250 (5th Cir.1990) (ERISA, 28 U.S.C. § 1114, preempts state law breach of contract claims.); 28 U.S.C. § 1337 (creating federal jurisdiction over interstate commerce).

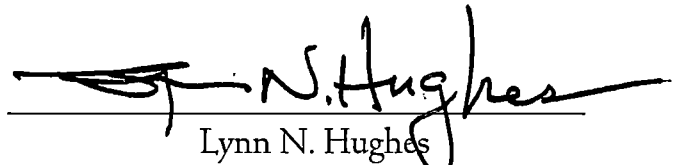
²³ 28 U.S.C. § 1332(a).

²⁴ [Doc. 1] at 3–6.

5. *Conclusion.*

The Court lacks subject matter jurisdiction to hear this dispute. As the jurisdictional defects in the complaint cannot be corrected, amendment would be futile, and dismissal is proper.²⁵ Jarvis DeWayne Hoskins's claims against Wendy Baker will be dismissed.²⁶

Signed on October 27, 2022, at Houston, Texas.


Lynn N. Hughes
United States District Judge

²⁵ See *Carolina Cas. Ins. v. Team Equip., Inc.*, 741 F.3d 1082, 1089 (9th Cir. 2014) (dismissal without leave to amend may be proper where amendment will be futile).

²⁶ Fed. R. Civ. P. 12(b)(1).