

**IN THE
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION**

JAMES MAY,
Plaintiff,

v.

MICHAEL QUAGLIANO,
Defendant.

Case No. 1:16-cv-01487-JES-JEH

Order

The Plaintiff, James May, filed a Complaint on December 20, 2016. (D. 1). The Plaintiff's Complaint asserts diversity of citizenship as the Court's subject matter jurisdiction. The allegations of the Complaint are not sufficient to support that assertion.

The court may *sua sponte* raise the issue of federal subject matter jurisdiction. *Tylka v. Gerber Products Co.*, 211 F.3d 445, 447 (7th Cir. 2000) (citations omitted). Asserting jurisdiction on the basis of "information and belief" is insufficient to invoke diversity jurisdiction. *America's Best Inns, Inc. v. Best Inns of Abilene, L.P.*, 980 F.2d 1072, 1074 (7th Cir. 1992) ("to the best of my knowledge and belief" is insufficient to invoke diversity jurisdiction); *Page v. Wright*, 116 F.2d 449, 451 (7th Cir. 1940) (expressing serious doubts as to whether the record could be sustained in the face of a direct jurisdictional attack where diversity jurisdiction was asserted, in part, based upon information and belief).

In his Complaint, the Plaintiff states that "Defendant Quagliano is, on information and belief, a resident and citizen of Kentucky[.]" (Doc. 1, p. 1). This is not sufficient to assert citizenship for purposes of subject matter jurisdiction.

The Court may grant leave to amend defective allegations of subject matter jurisdiction pursuant to 28 U.S.C. § 1653. See also, *Leaf v. Supreme Court of State of Wis.*, 979 F.2d 589, 595 (7th Cir. 1992)("leave to amend defective allegations of subject matter jurisdiction should be freely given")(citations omitted). Accordingly, it is hereby

ORDERED that the Plaintiff file an Amended Complaint not later than fourteen (14) days from the date of entry of this Order. In the Amended Complaint, the Plaintiff shall properly allege the basis for this Court's jurisdiction.

It is so ordered.

Entered on December 21, 2016

s/Jonathan E. Hawley

U.S. MAGISTRATE JUDGE