

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

NATIONAL COOPERATIVE BANK,
N.A. f/k/a NCB, FSB,
Plaintiff,

v.

GARY MATTHEWS,
Defendant.

Case No. 1:17-cv-01330-JES-JEH

Order

The Plaintiff, National Cooperative Bank, filed its Amended Complaint on July 27, 2017. (D. 8).¹ The Plaintiff's Amended Complaint asserts diversity of citizenship as the basis for the Court's jurisdiction. *Id.* at pg. 1. The allegations of the Complaint are insufficient 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).

The Plaintiff's Amended Complaint now sufficiently alleges the citizenship of the Plaintiff. The Amended Complaint, however, also alleges the citizenship of the Defendant, in part, "on information and belief[.]" (D. 8 at pp. 1; 2). 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

¹ Citations to the Docket in this case are abbreviated as "D. ___."

of a direct jurisdictional attack where diversity jurisdiction was asserted, in part, based upon information and belief). Accordingly, the Plaintiff's Complaint is not sufficient to invoke diversity 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). The Plaintiff is directed to file an amended complaint that adequately alleges the factual basis for this Court's jurisdiction. 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 July 28, 2017

s/Jonathan E. Hawley

U.S. MAGISTRATE JUDGE