

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	John J. Tharp Jr.	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	11 C 3054	DATE	8/13/2012
CASE TITLE	Huon vs. Breaking Media, et al.		

DOCKET ENTRY TEXT

For the reasons set forth in the statement section of this order, Plaintiff Meanith Huon's Second Amended Complaint [22] is dismissed without prejudice for lack of subject-matter jurisdiction. The plaintiff is granted leave to re-file a Third Amended Complaint on or before 9/12/12, addressing the jurisdictional issues noted in the Statement below.

■ [For further details see text below.]

Notices mailed by Judicial staff.

STATEMENT

Plaintiff Meanith Huon ("Huon") filed a Second Amended Complaint alleging that original jurisdiction is proper in this Court because of complete diversity of citizenship pursuant to 28 U.S.C. § 1332. The Court finds that Huon's allegations regarding diversity jurisdiction are insufficient to determine whether the Court can properly invoke jurisdiction over this lawsuit, and therefore the Second Amended Complaint is dismissed without prejudice.

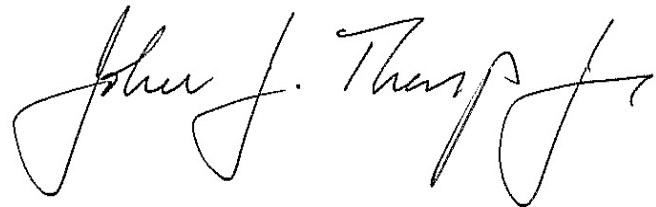
Huon's errors with respect to alleging complete diversity of citizenship are numerous. First, Huon fails to provide the Court with any basis to determine his own state citizenship. Huon alleges that he "was at all relevant times a citizen of the United States and a resident of Cook County, Illinois." (Doc. 22 at 2.) But this is insufficient to establish that Huon is an Illinois citizen because "residence may or may not demonstrate citizenship, which depends on domicile." *Heinen v. Northrop Grumman Corp.*, 671 F.3d 669, 670 (7th Cir. 2012). Huon must allege that he is a citizen—not merely a resident—of a particular state, and citizenship turns on domicile.

Second, the Second Amended Complaint lacks allegations regarding the state citizenship of defendants Abovethelaw.com, Breakingmedia.com, David Minkin, Breaking Media, Gawker Media a/k/a Gawker.com, Jezebel.com, Gaby Darbyshire, Lawyergossip.com, and Newnation.org a/k/a Newnation.tv a/k/a New Nation News. Huon must allege the state citizenship of these defendants if he wishes to invoke diversity jurisdiction. Furthermore, the citizenship of the remaining defendants (David Lat, Elie Mystal, John Lerner, Nick Denton, and Irin Carmon) is alleged only "upon information and belief." The Seventh Circuit has previously stated that allegations of citizenship "to the best of [plaintiff's] knowledge and belief" are insufficient. *America's Best Inns, inc. v. Best Inns of Abilene, L.P.*, 980 F.2d 1072, 1074 (7th Cir. 1992); *but see Medical Assurance Co., Inc. v. Hellman*, 610 F.3d 371, 376 (7th Cir. 2010) (allowing allegations of citizenship on "information and belief" where record has other indicia of defendants' citizenship).

Third, Huon alleges claims against numerous “John Doe” defendants, despite the prohibition of such claims in federal diversity suits. “[B]ecause the existence of diversity jurisdiction cannot be determined without knowledge of every defendant’s place of citizenship, ‘John Doe’ defendants are not permitted in federal diversity suits.” *Howell v. Tribune Entm’t Co.*, 106 F.3d 215, 218 (7th Cir. 1997). The Doe defendants listed in the Second Amended Complaint do not appear to fall within any exception to the rule against unnamed defendants in federal diversity suits.

Fourth, Huon purports to sue several domain names of websites in the Second Amended Complaint. The domain name of a website is not a legal entity, and is not therefore capable of being sued. *See e.g., Righthaven LLC v. Wolf*, 813 F.Supp.2d 1265, 1267 n. 1 (D. Colo. 2011); *Banks.com, Inc. v. Keery*, No. 09-6039, 2010 WL 1688612, *5 (N.D. Cal. April 26, 2010) (“[A] website, in and of itself, is not a legal entity capable of being sued.”). Even if Huon had properly alleged federal subject-matter jurisdiction, the Second Amended Complaint would nonetheless fail to state a valid claim against websites *Abovethelaw.com*, *Jezebel.com*, and *Newnation.org*.

The Court grants Huon 30 days to file a Third Amended Complaint curing all jurisdictional defects, including any defects other than those expressly noted above.



Courtroom Deputy

AIR