

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

BETTIE HEINZ,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL NO. 05-733-GPM
)	
SUSAN JOLIFF,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

MURPHY, Chief District Judge:

This action is before the Court for an initial review. The Court has an independent obligation to satisfy itself that federal subject matter jurisdiction exists. The Seventh Circuit repeatedly warns litigants and district courts that subject matter jurisdiction is not an issue to be taken lightly. *See, e.g., Belleville Catering Co. v. Champaign Market Place, L.L.C.*, 350 F.3d 691, 692 (7th Cir. 2003) (“[o]nce again litigants’ insouciance toward the requirements of federal jurisdiction has caused a waste of time and money”).

In this case, Plaintiff seeks to invoke the Court’s jurisdiction on the basis of diversity of citizenship, pursuant to 28 U.S.C. § 1332. In order for this Court to have diversity jurisdiction under 28 U.S.C. § 1332, the parties must be of diverse citizenship and the amount in controversy must exceed the sum or value of \$75,000, exclusive of interest and costs. The burden of proof falls on the party seeking to invoke federal diversity jurisdiction to present “competent proof” that the requirements of § 1332 have been met. *Chase v. Shop 'N Save Warehouse Foods, Inc.*, 110 F.3d 424, 427 (7th Cir. 1997); *see also McNutt v. General Motors Acceptance Corp.*, 298 U.S. 178, 179

(1936).

The amount in controversy requirement is most likely met by Plaintiff's prayer for judgment "in an amount exceeding the jurisdictional limits of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000); together with interest, costs of this action" Plaintiff must clarify, however, that she seeks "in excess of \$75,000, exclusive of interest and costs." *See* 28 U.S.C. § 1332. The Court is not sure what Plaintiff means by "together with interest, costs of this action."

Finally, it is alleged that Plaintiff is a resident of the State of Ohio, and Defendant is a resident of the State of Ohio. (*See* Doc. 1, paras. 1-2.) Because federal courts have jurisdiction over citizens of different states, a complaint must allege the *citizenship* of each party, not the residence. *Held v. Held*, 137 F.3d 998 (7th Cir. 1998); *Pollution Control Indus. of Am., Inc. v. Van Gundy*, 21 F.3d 152, 155 (7th Cir. 1994). The Seventh Circuit has repeatedly warned that an allegation of residency is insufficient to invoke federal subject matter jurisdiction. *See, e.g., Tylka v. Gerber Prods. Co.*, 211 F.3d 445, 448 (7th Cir. 2000).

"[S]ubject matter jurisdiction must be a matter of certainty and not of probabilities," *Murphy v. Schering Corporation*, 878 F. Supp. 124, 125-26 (N.D. Ill. 1995), and, at this time, the Court is not satisfied that jurisdiction exists. *See Tylka v. Gerber Prods. Co.*, 211 F.3d 445, 447 (7th Cir. 2000) (noting that federal courts are obligated to inquire *sua sponte* whenever a doubt arises as to the existence of federal jurisdiction). "[W]hile a court must dismiss a case over which it has no jurisdiction when a fatal defect appears, leave to amend defective allegations of subject matter jurisdiction should be freely given." *Leaf v. Supreme Court of Wis.*, 979 F.2d 589, 595 (7th Cir. 1992). Accordingly, pursuant to 28 U.S.C. § 1653, Plaintiffs shall, on or before **November 10, 2005**, file an amended complaint that properly invokes the Court's subject matter jurisdiction.

Failure to do so will result in the dismissal of this action for lack of subject matter jurisdiction.

IT IS SO ORDERED.

DATED: 10/17/05

s/ G. Patrick Murphy _____
G. PATRICK MURPHY
Chief United States District Judge