

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
PADUCAH DIVISION  
CIVIL ACTION NO. 5:15-CV-201-GNS-LLK

MELISSA R. JOHNSON

PLAINTIFF

V.

YUM! BRANDS, INC. d/b/a TACO BELL;  
YUM! BRANDS, INC.;  
TACO BELL CORPORATION; and  
TACO BELL OF AMERICA, LLC

DEFENDANTS

**MEMORANDUM OPINION AND ORDER**

This matter is before the Court on the Court's sua sponte motion to determine whether subject matter jurisdiction exists. Based upon the Court's review of the Complaint, the parties are not diverse as required by 28 U.S.C. § 1332. Because there is no other basis for jurisdiction, the Court will dismiss all claims asserted in the Complaint without prejudice due to lack of subject matter jurisdiction.

**I. STATEMENT OF FACTS**

As alleged in the Complaint, Plaintiff Melissa R. Johnson ("Johnson") is a resident of Kentucky. (Compl. ¶ 1, DN 1). Defendant Yum! Brands, Inc. d/b/a Taco Bell ("Taco Bell") has its principal place of business in Kentucky, which Defendants deny. (Compl. ¶ 2; Answer ¶ 2, DN 8). Defendant Yum! Brands, Inc. ("Yum! Brands") is a foreign corporation but has its principal place of business in Kentucky, which Defendants admit. (Compl. ¶ 3, Answer ¶ 3). Defendant Taco Bell Corporation ("Taco Bell Corporation") is incorporated and has its principal place of business in California, which Defendants admit. (Compl. ¶ 4; Answer ¶ 4). Taco Bell

of America, LLC (“Taco Bell of America”) is a limited liability company organized in Delaware but with its principal place of business in California, which Defendants admit. (Compl. ¶ 5; Answer ¶ 5). Johnson alleges that her damages exceed the jurisdictional limits of the Court. (Compl. ¶ 6).

On April 12, 2015, Johnson alleges that she purchased food from Defendants at a restaurant located in Hopkinsville, Kentucky. (Compl. ¶ 12). Unbeknownst to Johnson, there was a piece of plastic in the food, and she was injured when she attempted to consume the food. (Compl. ¶¶ 13-17). In the Complaint, Johnson asserts negligence and product liability claims against Defendants. (Compl. ¶¶ 18-28).

## **II. DISCUSSION**

In relevant part, 28 U.S.C. § 1332 provides that “[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between—(1) citizens of different States . . . .” 28 U.S.C. § 1332 (a)(1). The Supreme Court has held that this Congressional grant of jurisdiction requires complete diversity of citizenship. See *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 68 (1996) (citing *Strawbridge v. Curtiss*, 7 U.S. (3 Cranch) 267, 267 (1806)). Complete diversity does not exist, however, when a plaintiff is “a citizen of the same state as any defendant.” *Shea v. State Farm Ins. Cos.*, 2 F. App’x 478, 479 (6th Cir. 2001) (citations omitted).

In this case, there is not complete diversity between Plaintiff and Defendants. As outlined above, Johnson is a resident of Kentucky, and Yum! Brands is also a Kentucky resident because it has its principal place of business in Kentucky. See *Phelps v. Nationwide Ins. Co.*, 37

F. App'x 752, 753 (6th Cir. 2002). Because complete diversity does not exist, this Court lacks subject matter jurisdiction of this action under 28 U.S.C. § 1332.

**III. CONCLUSION**

Accordingly, **IT IS HEREBY ORDERED** that all claims be **DISMISSED WITHOUT PREJUDICE**.

A handwritten signature in black ink, appearing to read 'G. Stivers', is written over a circular seal of the United States District Court for the District of Kentucky.

**Greg N. Stivers, Judge**  
**United States District Court**

October 27, 2015

cc: counsel of record