

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**KORECO K. CLEAVES, Personal
Representative of the Estate of
KYAMBE CLEAVES, deceased,**

Plaintiff(s),

**CASE NUMBER: 07-11204
HONORABLE VICTORIA A. ROBERTS**

v.

**AMERICAN MANAGEMENT SERVICES
CENTRAL LLC, a foreign limited liability
company, et al.,**

Defendant(s).

**ORDER GRANTING PLAINTIFF'S
MOTION FOR RECONSIDERATION**

On April 12, 2007, this Court *sua sponte* dismissed Plaintiff Koreco K. Cleaves' Complaint for lack of subject matter jurisdiction, because it appeared from the face of the Complaint that complete diversity was lacking since Plaintiff averred that the decedent whom he represents and two of the Defendants reside in Michigan. See Order of Dismissal, April 12, 2007. Plaintiff asks the Court to reconsider its dismissal, pursuant to Local Rule 7.1(g)(3), because none of the Defendants was a resident of Michigan when the Complaint was filed (nor are any of them Michigan residents at this time). Plaintiff indicates that his averments to the contrary were due to an administrative error by Plaintiff's counsel. Therefore, he asks the Court to reinstate his Complaint and permit him to file an Amended Complaint which accurately states the residence of all parties.

Eastern District of Michigan Local Rule 7.1(g)(3) provides for reconsideration if the movant demonstrates a palpable defect by which the court and the parties have been misled, and further demonstrates that correcting the defect will result in a different disposition of the case. The Court finds that reconsideration is warranted. Plaintiff's error led the Court to believe that subject matter jurisdiction was lacking. But, Plaintiff adequately demonstrated with documentary evidence that jurisdiction actually existed when the Complaint was filed even though it was improperly pled. See *Stern v Beer*, 200 F.2d 794, 795 (6th Cir. 1952). Plaintiff's proposed amendment will cure the defect. Therefore, Plaintiff's motion for reconsideration is **GRANTED**. The Court's Order of Dismissal is **VACATED**. The Clerk of the Court is directed to reopen the case. Plaintiff is directed to file an Amended Complaint reflecting the correct residence of the parties within ten days of entry of this Order.

IT IS SO ORDERED.

S/Victoria A. Roberts

Victoria A. Roberts
United States District Judge

Dated: April 20, 2007

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on April 20, 2007.

S/Linda Vertriest

Deputy Clerk