UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

RONALD DAVIS CLARK,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:13CV899 SPM
	)	
BONMARITO,	)	
	)	
Defendant.	)	

MEMORANDUM AND ORDER

This matter is before the Court for review of plaintiff's complaint for subject matter jurisdiction. Under Rule 12(h)(3) of the Federal Rules of Civil Procedure, the Court is required to screen and dismiss any case where it appears that subject matter jurisdiction is lacking.

Plaintiff brings this action for breach of contract. Plaintiff says he bought a car from defendant Bonmarito "as is." Nevertheless, plaintiff alleges that the salesperson told him that defendant was "reputable" and that if there was a problem with the car, defendant would fix it. Plaintiff claims that there was a problem with the car's emission system. Plaintiff asserts that he tried to get the defendant to fix it but that his request was refused. Plaintiff seeks an award of damages.

Federal court jurisdiction over a state law-based cause of action exists when the parties are citizens of different states and the amount in controversy exceeds

$75,000, exclusive of interest and costs. 28 U.S.C. § 1332. Here, the Court lacks jurisdiction over plaintiff's state-law breach of contract claim because plaintiff alleges that both he and the defendant are residents of Missouri. As a result, the case must be dismissed for lack of jurisdiction. Fed. R. Civ. P. 12(h)(3). A separate order of dismissal will be filed.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis [ECF No. 2] is **granted**.

IT IS FURTHER ORDERED that plaintiff's motion for appointment of counsel [ECF No. 4] is **denied** as moot.

Dated this 14th day of May, 2013.

CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE