

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

LELAND ARTIS SPINKS,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:23-CV-1620 JAR
)	
KAREN FREEMAN,)	
)	
Defendants.)	

SHOW CAUSE ORDER

This matter is before the Court upon the motion of self-represented plaintiff Leland Artis Spinks for leave to commence this action without prepayment of the required filing fee. ECF No. 2. Having reviewed the motion and the financial information submitted in support, the Court will grant the motion and waive the filing fee. Furthermore, after reviewing the complaint, the Court will direct plaintiff to show cause as to why this action should not be dismissed for lack of subject matter jurisdiction. *See* [Fed. R. Civ. P. 12\(h\)\(3\)](#).

The Complaint

Plaintiff Leland Artis Spinks filed this action on the Court’s ‘Civil Complaint’ form against defendants Karen Freeman, Gloria J. Nichols, and Renee McCaster, all of whom appear to be employees or owners of “Metro at I-70 Apts.” ECF No. 1 at 1, 6. In the section of the form complaint to state his basis for jurisdiction, plaintiff does not indicate whether he is bringing this action pursuant to federal question or diversity of citizenship. *See id.* at 3-4. The Federal Question section has been left blank and, although plaintiff writes that he seeks “more than \$75,000,” he does not provide the citizenship of the parties to support jurisdiction based upon Diversity.

Plaintiff's claims against defendants are difficult to decipher as they are written using incomplete sentences and improper punctuation. His statement of the claim is as follows, in its entirety:

Filing civil suit against Metro + at I 70 Apts for showing bias and utter disrespect to disabled tennent [sic] by allowing him out of lease agreement forcibly for 2 yrs not rescinding his lease when he was not experiencing [illegible] enjoyment of premises as stated by their own Article #20 in the lease that tenant to break lease. [sic]

Within the past 2 years I've suffered anxiety stress and spikes in blood pressure which le[d] to an emergency room visit threatening another stroke and a year of vehicular damage on said premises and was not allowed to view their cc.Iv. [sic] on request and threate[n]ed that i[f] I tried moving that I would lose my section 8 benefits even when HUD themselves cited the property for numerous inspection failures + fire and safety. Suing car [sic] mental anguish and all out of pocket cost[s] to repair my vehic[u]lar damages on the parking lot of said premises.

Id. at 6.

Discussion

Subject matter jurisdiction refers to a court's power to decide a certain class of cases. *LeMay v. U.S. Postal Serv.*, [450 F.3d 797, 799](#) (8th Cir. 2006). "Federal courts are not courts of general jurisdiction; they have only the power that is authorized by Article III of the Constitution and the statutes enacted by Congress pursuant thereto." *Bender v. Williamsport Area Sch. Dist.*, [475 U.S. 534, 541](#) (1986). *See also Gunn v. Minton*, [568 U.S. 251, 256](#) (2013) ("Federal courts are courts of limited jurisdiction, possessing only that power authorized by Constitution and statute"). The presence of subject matter jurisdiction is a threshold requirement that must be assured in every federal case. *Kronholm v. Fed. Deposit Ins. Corp.*, [915 F.2d 1171, 1174](#) (8th Cir. 1990). *See also Sanders v. Clemco Indus.*, [823 F.2d 214, 216](#) (8th Cir. 1987) ("The threshold requirement in every federal case is jurisdiction and we have admonished the district court to be attentive to a satisfaction of jurisdictional requirements in all cases"). As such, the issue of subject matter jurisdiction may be raised at any time, by any party or the court. *Gray v. City of Valley Park, Mo.*, [567 F.3d 976, 982](#) (8th Cir. 2009).

The Court has jurisdiction to hear cases involving the Constitution, laws, or treaties of the United States under [28 U.S.C. § 1331](#), and the Court can hear cases where diversity jurisdiction exists under [28 U.S.C. § 1332](#). See *Auto-Owners Ins. Co. v. Tribal Court of Spirit Lake Indian Reservation*, [495 F.3d 1017, 1020](#) (8th Cir. 2007) (finding subject matter jurisdiction is lacking if neither diversity of citizenship nor federal question jurisdiction applies); and *McLaurin v. Prater*, [30 F.3d 982, 984-85](#) (8th Cir. 1994) (noting Congress has directed that district courts shall have jurisdiction in both federal question and diversity cases). Under [28 U.S.C. § 1332](#), the Court has diversity jurisdiction over cases where the parties reside in different states and where the amount in controversy is more than \$75,000. The amount in controversy is to be ascertained from the complaint itself. *Horton v. Liberty Mut. Ins. Co.*, [367 U.S. 348, 353](#) (1961).

Here, it does not appear from plaintiff's complaint that either federal question jurisdiction or diversity jurisdiction is present. First, plaintiff leaves the "Federal Question" section blank, and nothing in the statement of claim refers to a violation of a specific federal statute or Constitutional provision. See *Thomas v. United Steelworkers Local 1938*, [743 F.3d 1134, 1139](#) (8th Cir. 2014) ("Under the well-pleaded complaint rule, a federal question must exist on the face of the plaintiff's properly pleaded complaint in order to establish federal question subject matter jurisdiction").

Second, plaintiff does not indicate this Court has diversity jurisdiction as he does not allege that the parties reside in different states, and does not provide sufficient facts to support the legitimacy of a claim exceeding \$75,000. "When a federal complaint alleges a sufficient amount in controversy to establish diversity jurisdiction, but . . . the court questions whether the amount alleged is legitimate, the party invoking federal jurisdiction must prove the requisite amount by a preponderance of the evidence." See *Missouri ex rel. Pemiscot Cnty v. Western Sur. Co.*, [51 F.3d 170, 173](#) (8th Cir. 1995). To satisfy this standard requires offering some specific facts or evidence demonstrating that the jurisdictional amount has been met. See *Hill v. Ford Motor Co.*, [324 F.](#)

Supp. 2d 1028, 1035 (E.D. Mo. 2004). “Speculation and belief that a plaintiff’s damages exceed \$75,000 is insufficient to meet this burden.” *Krebs v. Estate of Estate of Krebs*, No. 14-CV-1408–JAR, [2015 WL 2092469](#), at *4 (E.D. Mo. May 5, 2015) (citing *Hill*, 324 F. Supp. 2d at 1036).

Order to Show Cause

As discussed above, plaintiff has not adequately provided a basis for this Court’s jurisdiction. If the Court determines at any time that it lacks subject matter jurisdiction, the action must be dismissed. *See* [Fed. R. Civ. P. 12\(h\)\(3\)](#). Therefore, plaintiff will be ordered to show cause within thirty (30) days of the date of this order as to why this case should not be dismissed for lack of subject matter jurisdiction. Failure to comply with this order will result in the dismissal of this action without prejudice and without further notice.

Motion to Appoint Counsel

Plaintiff has filed a motion to appoint counsel. ECF No. 3. In civil cases, a self-represented litigant does not have a constitutional or statutory right to appointed counsel. *Ward v. Smith*, [721 F.3d 940, 942](#) (8th Cir. 2013). *See also* *Stevens v. Redwing*, [146 F.3d 538, 546](#) (8th Cir. 1998) (stating that “[a] pro se litigant has no statutory or constitutional right to have counsel appointed in a civil case”). Rather, a district court may appoint counsel in a civil case if the court is “convinced that an indigent plaintiff has stated a non-frivolous claim . . . and where the nature of the litigation is such that plaintiff as well as the court will benefit from the assistance of counsel.” *Patterson v. Kelley*, [902 F.3d 845, 850](#) (8th Cir. 2018). When determining whether to appoint counsel for an indigent litigant, a court considers relevant factors such as the complexity of the case, the ability of the pro se litigant to investigate the facts, the existence of conflicting testimony, and the ability of the pro se litigant to present his or her claim. *Phillips v. Jasper Cty. Jail*, [437 F.3d 791, 794](#) (8th Cir. 2006).

After reviewing these factors, the Court finds that the appointment of counsel is not warranted at this time. Plaintiff has yet to file a complaint that survives initial review, so it cannot be said that he has presented non-frivolous claims. Additionally, this case appears to involve straightforward factual and legal issues, and there is no indication that plaintiff cannot investigate the facts and present his claims to the Court. Moreover, plaintiff is being directed to show cause as to why this case should not be dismissed for lack of subject matter jurisdiction. The Court will entertain future motions for appointment of counsel as the case progresses, if appropriate.

Accordingly,

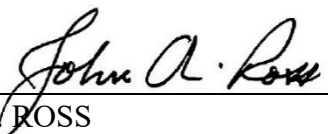
IT IS HEREBY ORDERED that plaintiff's motion for leave to proceed *in forma pauperis* [ECF No. 2] is **GRANTED** and the filing fee is waived.

IT IS FURTHER ORDERED that plaintiff's motion for appointment of counsel [ECF No. 3] is **DENIED** at this time.

IT IS FURTHER ORDERED that plaintiff is required to show cause in writing and within **thirty (30) days** of the date of this order why this action should not be dismissed for lack of subject matter jurisdiction.

Plaintiff's failure to timely comply with this Order could result in the dismissal of this action, without prejudice and without further notice.

Dated this 3rd day of January, 2024.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE