

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION**

BART HAWK,)	
)	
Plaintiff,)	
)	
v.)	
)	No. 07-6043-CV-SJ-DW
TOM OSBORN and CRESTON LIVESTOCK)	
AUCTION, INC.,)	
)	
Defendants.)	

ORDER

Before the Court is Defendant Osborn’s Motion to Dismiss or to Remove the Case to State Court. (Doc. 56). The Court construes the Motion as a motion under Federal Rule of Civil Procedure 12(b)(1). Plaintiff failed to respond to Defendant’s Motion.

Plaintiff filed this case on April 12, 2007. He claimed diversity jurisdiction under 28 USC § 1332. Section 1332 requires that there be diversity of citizenship among the parties. Plaintiff is a citizen of the state of Missouri. At the time Plaintiff filed his complaint, the two Defendants were Tom Osborn and Creson Livestock Auction, Inc., both citizens of the state of Iowa.

On December 18, 2007, this Court granted Plaintiff’s Motion for Leave to File First Amended Complaint. (Doc. 48). Plaintiff filed his Amended Complaint on December 18, 2007. The Complaint added Defendant Wheaton "Max" Dawson as a party to the lawsuit. Defendant Dawson is a citizen of Missouri.

Given that Defendant Dawson and Plaintiff Hawk are both Missouri citizens, this Court’s jurisdiction under 28 USC § 1332 is destroyed. The case is hereby DISMISSED for lack of subject matter jurisdiction.

Date: February 8, 2008

/s/ Dean Whipple
Dean Whipple
United States District Judge