IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:17-CV-195-D

LIBERTY MUTUAL FIRE INSURANCE COMPANY, OHIO SECURITY INSURANCE COMPANY, and EMPLOYERS INSURANCE COMPANY, WAUSAU,	)	
Plaintiffs,	)	
v.	)	**ORDER**
INFINITE COMMUNICATIONS, INC.,	)	
Defendant.	)	

On June 16, 2017, defendant Infinite Communications, Inc., moved to dismiss the complaint for lack of subject-matter jurisdiction as to plaintiffs Ohio Security Insurance Company and Employers Insurance Company, Wausau [D.E. 17] and filed a memorandum in support [D.E. 18]. On July 7, 2017, plaintiffs Liberty Mutual Fire Insurance Company, Ohio Security Insurance Company, and Employers Insurance Company, Wausau responded in opposition [D.E. 19]. On July 21, 2017, Infinite Communications, Inc. replied [D.E. 20].

The court has diversity jurisdiction under 28 U.S.C. § 1332(a)(1) over the action between Liberty Mutual Fire Insurance Company and Infinite Communications, Inc. See Compl. [D.E. 1] ¶¶ 1,5, 6, 24–35, 60–66. The court has supplemental jurisdiction under 28 U.S.C. § 1367(a) over the claims of Ohio Security Insurance Company and Employers Insurance Company, Wausau. See Compl. [D.E. 1] ¶¶ 2–5, 53–59, 67–74; 28 U.S.C. § 1367(a). Although the better practice would have been to cite 28 U.S.C. § 1332(a) and 28 U.S.C. § 1367(a) in their complaint, plaintiffs' failure to cite 28 U.S.C. § 1367(a) does not defeat supplemental jurisdiction. See, e.g., Johnson v. City of

Shelby, 135 S. Ct. 346, 346–47 (2014) (per curiam); Fed. R. Civ. P. 8(a)(1); see also Exxon Mobile Corp. v. Allapattah Servs., Inc., 545 U.S. 546, 559–67 (2005); Aleman v. Chugach Support Servs., Inc., 485 F.3d 206, 218 n.5 (4th Cir. 2007); Saval v. BL Ltd., 710 F.2d 1027, 1031 (4th Cir. 1983) (per curiam); Shenandoah Mobile, LLC v. Eduro Networks, LLC, No. 5:13CV102, 2014 WL 1232352, at *1–5 (W.D. Va. Mar. 24, 2014) (unpublished).

In sum, defendant's motion to dismiss [D.E. 17] is DENIED.

SO ORDERED. This 22 day of November 2017.

JAMES C. DEVER III
Chief United States District Judge