



STATE OF MAINE
YORK, SS.

SUPERIOR COURT
CIVIL ACTION

DOCKET NO. ~~RE~~-13-52

JON-YOR-CV 6/12/2013

SEAN MCKENZIE,)

Plaintiff,)

v.)

VIKAS SINGHAL, PAUL MISIR,)

WILLIAM SANFORD, and 20@LLC,)

Defendant.)

ORDER DENYING DEFENDANTS'
MOTIONS TO DISMISS

I. Background

Plaintiff claims to have been an independent contractor for Defendant corporation 20@ LLC. Plaintiff performed graphic, web site design, and interface design services for Defendant between the dates of May 2011 and December 2011. Plaintiff received payment on invoices submitted for work performed prior to August 2, 2011. Plaintiff brought this action seeking to collect on work performed after that date. Defendants Vikas Singhal, Paul Misir, and William Sanford have moved the Court to dismiss the case.

II. Standard of Review

The purpose of a motion to dismiss is to determine the legal sufficiency of the complaint. *Livonia v. Town of Rome*, 707 A.2d 83, 85 (Me. 1998). The Court will review the motion in the light most favorable to the plaintiff, taking the facts as stated in the complaint to be true. *Id.* The Court will grant a motion to dismiss only where "it appears beyond doubt that a plaintiff is entitled to no relief under any set of facts that he might

prove in support of his claims.” *McAfee v. Cole*, 637 A.2d 463, 465 (Me. 1994) (citations omitted).

III. Discussion

Defendants Vikas Singhal, Paul Misir, and William Sanford have moved the Court to dismiss the case. Defendants have moved the Court to dismiss the case on the grounds that the Court does not have jurisdiction over Defendants, Plaintiff did not have a contract, the summons was defective, the case is frivolous and merely an attempt to further harass Defendants, and the complaint was not filed under Plaintiff’s true name.

According to Maine’s long arm statute, jurisdiction is conferred when a cause of action arises from the transaction of any business within the State. 14 M.R.S. § 704-A (2012). Plaintiff asserts that the Court does have jurisdiction over Defendants because the conflict arises from a business transaction between the two parties, and throughout the entire course of the business transaction Plaintiff lived and worked in Maine. Defendant asserts that it was not aware of Plaintiff’s residence, nor would they have had reason to, as they did not employ Plaintiff. Defendant asserts that Plaintiff was employed by Defendant’s independent contractors. Without an appearance by both parties, the Court must base its findings on the four corners of the complaint, taking Plaintiff’s facts asserted to be true. Based solely on the assertions in the complaint, Defendants had reason to know that they were entering into a business transaction in Maine, and therefore the Court has jurisdiction.

Defendants have moved the Court to dismiss for failure to state a claim upon which relief can be granted. Plaintiff’s complaint alleges breach of contract. Viewing the facts in the light most favorable to the non-moving party, the Court finds that there is a a

claim alleged upon which relief can be granted. The Court does not dismiss the case on the merits at this time. The Court will determine the veracity of the parties allegations based upon a testimonial hearing to be held at a later date.

A corporation may not represent itself pro se. *See Rowland v. Cal. Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 201-02, 113 S.Ct. 716, 121 L.Ed.2d 656 (1993); *Hooper-Haas v. Ziegler Holdings, LLC*, 690 F.3d 34, 36 (1st Cir. 2012). Plaintiff argues that Defendants Singhal, Misir, and Sanfords' pro se filings are problematic under this rule. Because Plaintiff filed against Defendants Singhal, Misir, and Sanford each as individuals, they may represent themselves pro se, as individual defendants. However, Defendant 20@ LLC must be represented by an attorney.

IV. Conclusion

Defendants Motions to Dismiss is DENIED.

DATE:

6/12/13



John O'Neil, Jr.
Justice, Superior Court

ALL PARTIES ARE PRO SE:

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