

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LEROY MCKNIGHT, <i>pro se</i> ,	:	CIVIL ACTION
	:	
Plaintiff,	:	
	:	
v.	:	No. 05-492
	:	
HARTFORD INSURANCE	:	
COMPANY, et al.,	:	
	:	
Defendants.	:	

MEMORANDUM

ROBERT F. KELLY, S.J.

MAY 11, 2005

Presently pending before this Court are several motions to dismiss the complaint, as well as numerous responses and motions filed by Plaintiff to which the Court has difficulty assigning labels. As several of the motions raise the issue of jurisdiction, I have elected to review the Complaint in its totality to determine the existence of subject matter jurisdiction. After a careful review of the Amended Complaint, I conclude that I lack subject matter jurisdiction to consider this case and will, accordingly, dismiss it.

I. BACKGROUND

Plaintiff initiated the present action in this Court by filing a Complaint against Hartford Insurance Company. Plaintiff thereafter filed an Amended Complaint naming Mara Leyzin, M.D., Anna Dubyanskite, M.D., and Nazareth Hospital as Defendants. Thereafter, Plaintiff filed two motions to amend his complaint, on February 18 and 23, 2005. In an Order of March 3, 2005, this Court granted Plaintiff's requests to amend his complaint and directed him to file a single amended complaint naming all defendants he wished to sue and the grounds therefore with respect to each defendant. The required Amended Complaint was filed on March

11, 2005, naming the current sixteen Defendants.

II. DISCUSSION

“It is a principle of first importance that the federal courts are courts of limited jurisdiction.” 13 Wright, Miller, & Cooper, Federal Practice and Procedure § 3522. While most state courts are courts of general jurisdiction, where the presumption is that they have jurisdiction over a cause unless a showing is made to the contrary, the federal courts, on the other hand, are courts of limited jurisdiction. They are empowered only to hear only those cases that are within the judicial power of the federal government defined by the Constitution, and that have been entrusted to them through a jurisdictional grant by the Congress. Id. As a result, jurisdiction must be proven to the court or it is powerless to proceed. Id. Furthermore, when it becomes apparent that the court lacks subject matter jurisdiction, the case must be dismissed. Id.; see also Am. Fiber v. Tyco Healthcare, 362 F.3d 136, 138 (1st Cir. 2004).

There are two independent grounds for jurisdiction in the federal courts. First, an action may be brought pursuant to a question of federal law. Second, the federal courts have the power to hear cases based upon a question of state law when the parties to the action are of diverse citizenship. I will consider each ground of jurisdiction.

A. FEDERAL QUESTION JURISDICTION

The district courts have original jurisdiction over a civil action arising under the Constitution, law, or treaties of the United States. 28 U.S.C. § 1331. As a result, an action may be brought in the federal courts so long as federal law creates the cause of action, or the complaint poses a substantial question of federal law. See Virgin Islands Hous. Auth. v. Coastal Gen. Constr. Servs. Corp., 27 F.3d 911, 916 (3d Cir. 1994).

Although Plaintiff has categorized this action as a “civil rights claim” on the Civil Cover Sheet, it is clear that the Amended Complaint does not allege any state action that violated his rights. It does not, therefore, provide a basis for this Court to take jurisdiction. In order to make out a claim for a civil rights violation pursuant to the relevant law, a plaintiff must allege, with a modicum of actual specificity, that a state actor violated a federally protected right.

DeFerro v. Coco, 709 F. Supp. 643 (E.D. Pa. 1989).

The only claim asserted against a state actor in the Amended Complaint is Plaintiff’s assertion that the City of Philadelphia’s Department of Licensing and Inspection failed to provide him a report of an inspection undertaken at his apartment to evaluate the presence of mold. There is no claim that this conduct violates any constitutional or federal statutory right. There is, therefore, no basis for jurisdiction as a question of federal law. All of Plaintiff’s other claims against the remaining Defendants are either claims for medical malpractice or otherwise claims of negligence, claims that are grounded in state law. As a result, the Amended Complaint does not invoke federal question jurisdiction.

B. DIVERSITY JURISDICTION

District courts also have original jurisdiction over matters in which there is complete diversity of citizenship among of the parties and the amount in controversy exceeds \$75,000. 28 U.S.C. § 1332. Diversity of citizenship requires that no plaintiff may be a citizen of the same state as a defendant. Individuals are citizens of the state in which they reside and maintain their domicile. Corporations are citizens of the states in which they are incorporated and maintain their principal place of business.

Plaintiff, who resides in the City of Philadelphia, is a citizen of the

Commonwealth of Pennsylvania. A review of the summonses issued in this case shows that at least fifteen of the sixteen Defendants in this action are citizens of the Commonwealth of Pennsylvania. As a result, there is not even the slightest possibility of jurisdiction in this court based upon diversity among the parties. As a result, the case will be dismissed.

III. CONCLUSION

After a careful review of the Amended Complaint, I conclude that neither federal question nor diversity jurisdiction are present in this case. As a result, I am required to dismiss it for lack of subject matter jurisdiction.

An appropriate Order follows.

