

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

PAUL WALTER HARPER,	:	CIVIL ACTION
	:	
Plaintiff,	:	NO. 06-01059
	:	
v.	:	
	:	
JUN J. MAO, M.D.,	:	
	:	
Defendant.	:	

MEMORANDUM AND ORDER

Stengel, J.

July 12, 2006

Pro se plaintiff Paul Walter Harper has filed a medical malpractice action against defendants Jun J. Mao, M.D., Presbyterian Medical Center, the Trustees of the University of Pennsylvania, and the University of Pennsylvania Health System (collectively "Defendants"). Defendants filed a motion to dismiss the complaint, or in the alternative, for a more definite statement. Before reaching Defendants' motion, however, I must determine whether this Court has subject matter jurisdiction over Plaintiff's case. After reviewing the complaint, I find that Plaintiff has not alleged facts satisfying the statutory requirements for this Court to assume subject matter jurisdiction over the case.

I. BACKGROUND

Plaintiff filed his hand-written, one-page complaint on March 14, 2006. The complaint alleges in its entirety:

Plaintiff, who resided in Lancaster, Pa., sought appropriate medical care from Dr. [Jun J. Mao, M.D., a doctor at Presbyterian Medical Center in Philadelphia, Pennsylvania],

who neglected to adhere to the accepted standards of medical practice. The negligence resulted in aggravation and/or causation of plaintiff's debilitation [sic], pain, and suffering. Plaintiff seeks compensatory damages in an amount to be determined at a later date.

Complaint ¶ 1.

Defendants filed the instant motion to dismiss, or in the alternative, for a more definite statement on June 8, 2006. Defendants have not raised the issue of subject matter jurisdiction. Federal courts, however, are obligated to "address the question of subject matter jurisdiction *sua sponte*" even if the parties do not raise the issue. See Employers Ins. of Wausau v. Crown Cork & Seal Co., Inc., 905 F.2d 42, 45 (3d Cir. 1990).

II. DISCUSSION

Federal courts will not assume that they have subject matter jurisdiction over a matter; the parties must demonstrate the basis of the court's jurisdiction. See Mennen Co. v. Atlantic Mutual Ins. Co., 147 F.3d 287, 293 (3d Cir. 1998). Plaintiff's complaint does not raise a federal question. Thus, the Court could only have subject matter jurisdiction over this case based on diversity of citizenship. Federal courts have subject matter jurisdiction based on diversity of citizenship where: (1) there is complete diversity among the parties; and (2) the amount in controversy "exceeds the sum or value of \$75,000, exclusive of interest and costs." 28 U.S.C. § 1332(a). The plaintiff bears the

burden of demonstrating diversity jurisdiction, Quaker State Dyeing & Finishing Co., Inc. v. ITT Terryphone Corp., 461 F.2d 1140, 1143 (3d Cir. 1972) (citation omitted), and Rule 12(h)(3) of the Federal Rules of Civil Procedure provides that "[w]henver it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action." FED. R. CIV. P. 12(h)(3).

In this case, Plaintiff has not alleged any facts demonstrating that the Court has subject matter jurisdiction over his case. The complaint does not contain any allegations demonstrating that there is complete diversity among the parties. Nor does the complaint allege that the amount in controversy exceeds \$75,000.00. Accordingly, I will dismiss the case for lack of subject matter jurisdiction. An appropriate Order follows.

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JUN J. MAO, M.D.,	:	
	:	
Defendant.	:	

ORDER

AND NOW, this 12th day of July, 2006, it is hereby **ORDERED** that this case is **DISMISSED** for lack of subject matter jurisdiction pursuant to Rule 12(h)(3) of the Federal Rules of Civil Procedure. The Clerk of Court shall mark this case as closed for statistical purposes.

BY THE COURT:

/s/ Lawrence F. Stengel
LAWRENCE F. STENGEL, J.