

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 07-61748-CIV-ZLOCH

CRYSTAL ENTERTAINMENT &
FILMWORKS, INC., et al.,

Plaintiffs,

vs.

FINAL ORDER OF DISMISSAL

JEANETTE JURADO, et al.,

Defendants.

THIS MATTER is before the Court sua sponte. The Court has carefully reviewed the entire court file herein and is otherwise fully advised in the premises.

On November 30, 2007, Plaintiffs Crystal Entertainment & Filmworks, Inc. and Crystal Entertainment & Filmworks II, Inc., filed their Complaint (DE 1). In their Complaint, Plaintiffs allege several causes of action against Defendants.

The Court notes that the Federal courts are courts of limited jurisdiction. The presumption, in fact, is that a Federal court lacks jurisdiction in a particular case until it has been demonstrated that jurisdiction over the subject matter exists. Fitzgerald v. Seaboard System Railroad, Inc., 760 F.2d 1249 (11th Cir. 1985). Rule 8(a)(1) requires that complaints contain "a short and plain statement of the grounds upon which the court's jurisdiction depends." Fed. R. Civ. P. 8(a)(1). The basis of the district court's jurisdiction must be alleged "affirmatively and distinctly and cannot 'be established argumentatively or by mere inference.'" 5 Wright & Miller, Federal Practice and Procedure:

Civil 3d Section 1206 (2004) (quoting Thomas v. Bd. of Trustees of Ohio State Univ., 195 U.S. 207, 218 (1904)). Plaintiffs' Complaint fails to allege this Court's subject matter jurisdiction over the above-styled cause. Therefore, the Court lacks federal subject matter jurisdiction over the Complaint. Although the instant Complaint cites various provisions of the Lanham Act, such citations alone are insufficient to establish subject matter jurisdiction over the case.

Having determined that it lacks federal question jurisdiction over the Plaintiffs' Complaint, the Court considers whether it has diversity jurisdiction over the above-styled cause pursuant to 28 U.S.C. § 1332. The Court notes that § 1332 provides that where a Complaint is founded on diversity of citizenship, a Federal court may maintain jurisdiction over the action only "where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between (1) citizens of different states" 28 U.S.C. § 1332 (2006).

The requisite diversity of citizenship as to Plaintiffs and Defendants is not apparent on the face of the Complaint (DE 1). The Complaint alleges only that:

2. CRYSTAL is a Florida corporation which operates a music and film entertainment business, both within and without the jurisdiction of this Court. CRYSTAL's primary place of business is Miami, Florida.

. . .

9. PARADISE is a California Corporation and serves as the booking agent for the GROUP.

. . . .
11. WDE is a Nevada Corporation which filed a federal trademark application for the EXPOSE' mark on August 10, 2007.

DE 1. Section 1332(c) specifically prescribes the allegations sufficient to establish a corporate party's citizenship, it states: "a corporation shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business." Id. The Complaint fails to allege the citizenship of WDE. Although Plaintiffs allege that Defendant "WDE is a Nevada Corporation," the allegation is insufficient to satisfy the requirements of pleading diversity. See Sweet Pea Marine, Ltd. v. APJ Marine, Inc., 411 F.3d 1242, 1247 (11th Cir. 2005). Even if the Court construes Plaintiffs' allegation as sufficient to establish that WDE is incorporated under the laws of Nevada, the pleadings fail to allege WDE's principal place of business. Additionally, Plaintiffs have wholly failed to allege the citizenship of some Parties to this action. Therefore, the diversity of citizenship requirements of 28 U.S.C. § 1332 have not been satisfied.

In dismissing the above-styled cause due to the Parties' failure to satisfy the requirements of federal jurisdiction, the Court echos the recently stated sentiment of the United States Court of Appeals for the Seventh Circuit:

Are we being fusspots and nitpickers in trying (so far with limited success) to enforce rules designed to ensure that federal courts do not exceed the limits that the Constitution and federal statutes impose on their jurisdiction? Does it really matter if federal courts

decide on the merits cases that they are not actually authorized to decide? The sky will not fall if federal courts occasionally stray outside the proper bounds. But the fact that limits on subject-matter jurisdiction are not waivable or forfeitable - that federal courts are required to police their jurisdiction - imposes a duty of care that we are not at liberty to shirk. And since we are not investigative bodies, we need and must assure compliance with procedures designed to compel parties to federal litigation to assist us in keeping within bounds. Hence [it is] . . . the responsibility of lawyers who practice in the federal courts, even if only occasionally, to familiarize themselves with the principles of federal jurisdiction.

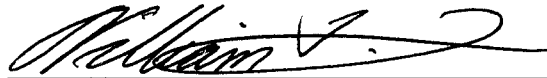
Smoot v. Mazda Motors of Am., Inc., 469 F.3d 675, 678 (7th Cir. 2006).

Accordingly, after due consideration, it is

ORDERED AND ADJUDGED as follows:

1. The Complaint (DE 1) filed herein by the Plaintiffs Crystal Entertainment & Filmworks, Inc. and Crystal Entertainment & Filmworks II, Inc., be and the same is hereby **DISMISSED** without prejudice;
2. The above-styled cause be and the same is hereby **DISMISSED** without prejudice; and
3. To the extent not otherwise disposed of herein, all pending Motions are hereby **DENIED** as moot.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 23rd day of January, 2008.



WILLIAM J. ZLOCH
United States District Judge

Copies furnished:

All Counsel of Record