

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT LOUISVILLE

GEORGE W. REID

PLAINTIFF

v.

CIVIL ACTION NO. 3:00CV-799-S

FRANKFORT PUBLISHING CO., L.L.C.  
d/b/a THE STATE JOURNAL, et al.

DEFENDANTS

**MEMORANDUM OPINION**

This court ordered the plaintiff, George W. Reid (“Reid”), to show cause why his Complaint should not be dismissed without prejudice for lack of subject matter jurisdiction due to his failure to adequately demonstrate the requisite diversity of the parties. *See* DN 18. In response, Reid contends that he is a citizen of Kentucky and that Delaware is both the state of incorporation and the principal place of business of the defendant, Frankfort Publishing Co., L.L.C. (“Frankfort Publishing”).

A party “seeking to bring a case into federal court carries the burden of establishing diversity jurisdiction.” *Certain Interested Underwriters at Lloyd’s, London, England v. Layne*, 26 F.3d 39, 41 (6<sup>th</sup> Cir. 1994) (citations omitted). Reid relies upon information obtained from the Kentucky Secretary of State’s website which indicates that Frankfort Publishing’s “principal office” is in Delaware.<sup>1</sup>

Ann Maenza, Frankfort Publishing’s general manager (“Maenza”), has filed an affidavit which is unrefuted. *See* Def.’s Reply, Ex. A. According to Maenza, Frankfort Publishing’s sole business enterprise is publishing the State Journal, a daily newspaper published in Frankfort, Kentucky. *See id.* at ¶ 2. Maenza states that Frankfort Publishing does no business in Delaware.

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<sup>1</sup>This information can be accessed at <http://www.sos.state.ky.us/corporate2/Type06.asp?id=0422012&seq=99999&ctype=06>.

*See id.* at ¶¶8, 9. She states that the Delaware address listed as Frankfort Publishing’s “principal office” is actually the address of its agent for incorporation, the CT Corporation. *See id.* at ¶7. CT Corporation’s website verifies that its Delaware address is the same as the address listed as Frankfort Publishing’s “principal office” with the Kentucky Secretary of State’s office.<sup>2</sup> The inquiry here is where the principal place of business is, not where an office for service of process is located.

Based on the above, we find that diversity of citizenship between Reid and Frankfort Publishing is lacking and that, therefore, we lack subject matter jurisdiction to provide a forum for Reid’s claims. Reid’s Complaint will be dismissed without prejudice pursuant to Fed. R. Civ. P. 12 (h) (3).

In addition, Reid’s motion for leave to amend his Complaint will be denied because the tendered Amended Complaint fails to cure the original Complaint’s jurisdictional defects. *See Frank v. D’Ambrosi*, 4 F.3d 1378, 1386 (6<sup>th</sup> Cir. 1993) (holding that while leave to amend pleadings should be freely granted, a “court need not grant leave to amend when the amendment would be futile”).

A separate order will be entered this date in accordance with this opinion.

This \_\_\_\_ day of \_\_\_\_\_, 2001.

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CHARLES R. SIMPSON III, CHIEF JUDGE  
UNITED STATES DISTRICT COURT

cc: Counsel of Record

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY

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<sup>2</sup>[http://www.ctadvantage.com/contact\\_info/contact\\_info\\_fr.html](http://www.ctadvantage.com/contact_info/contact_info_fr.html).

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**ORDER**

For the reasons set forth in the accompanying memorandum opinion, and the court being otherwise sufficiently advised, **IT IS HEREBY ORDERED AND ADJUDGED** that the plaintiff's motion to amend his complaint is **DENIED**.

**IT IS FURTHER ORDERED AND ADJUDGED** that the plaintiff's original complaint is **DISMISSED WITHOUT PREJUDICE FOR LACK OF SUBJECT MATTER JURISDICTION**.

**IT IS SO ORDERED** this \_\_\_\_ day of \_\_\_\_\_, 2001.

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CHARLES R. SIMPSON III, CHIEF JUDGE  
UNITED STATES DISTRICT COURT

cc: Counsel of Record