

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA

BRUCE and WENDY ANDERSON, )  
 )  
 Plaintiffs, )  
 )  
 vs. )  
 )  
 AMWAY/QUIXTAR, INC.; )  
 MICHAEL YOUNG McCORMICK; )  
 DONALD E. CHRISTOPHER; and )  
 HAL GOOCH, )  
 )  
 Defendants. )

Case No: 3:07-CV-844-J-25JRK

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**MOTION TO DISMISS**

*(Rule 12(b)(1), Federal Rules of Civil Procedure)*

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COMES NOW Defendant Hal Gooch, by and through his undersigned Attorney of Record, pursuant to the provisions of Rule 12(b)(1) of the Federal Rules of Civil Procedure and respectfully prays the court for entry of an order dismissing Plaintiffs' complaint on the ground that the United States District Court for the Middle District of Florida lacks jurisdiction over this cause and the parties thereto.

In support of such Motion, Defendant Gooch respectfully shows unto the Court that:

1. Plaintiffs' complaint alleges claims for compensatory damages, exemplary damages, and for other relief based upon allegations that Defendants have engaged in one or more unlawful acts.
2. Plaintiffs are citizens and residents of Duval County, Florida.
3. Defendant Amway/Quixtar is a corporation organized and existing under the laws of the State of Virginia, and which has its office and principal place of business in the State of Michigan.

4. Defendant McCormick is a citizen and resident of the State of Texas.

5. Defendant Christopher is a citizen and resident of the State of Florida.

6. Defendant Gooch is a citizen and resident of the State of North Carolina.

7. Plaintiffs have affirmatively alleged that the United States District Court for the Middle District of Florida has jurisdiction over this matter and the parties thereto pursuant to the provisions of 28 U.S.C. § 1332(a)(2).

8. Though Plaintiffs have invoked the diversity jurisdiction of the courts of the United States as a basis for bringing the instant litigation, Plaintiffs' Amended Complaint affirmatively shows on its face that there is incomplete diversity among the parties in that Plaintiffs and Defendant Christopher all are citizens of the State of Florida.

9. Plaintiffs' Amended Complaint alleges a complicated course of dealing among the named Defendants which purportedly damaged them. It will not be possible or feasible for the Court to sever Defendant Christopher from the instant litigation and completely adjudicate the rights and liabilities of the respective parties herein.

10. Because there is incomplete diversity among the parties hereto, the United States District Court for the Middle District of Florida does not have jurisdiction over this matter, and the same should be dismissed.

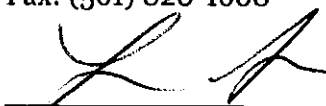
11. In support of such Motion, Defendant Gooch contemporaneously has filed a brief with the Court as required by the provisions of Local Rule 3.01(a), which brief is filed as an attachment to this Motion.

WHEREFORE Defendant Gooch respectfully prays the court that an order be entered dismissing Plaintiffs' complaint for lack of jurisdiction.

Respectfully submitted, this 24th day of January 2008.

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By:

  
GERALD F. RICHMAN  
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/s/ WILLIAM E. WEST, JR.  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this date the foregoing Motion to Dismiss upon Plaintiffs herein by electronic filing with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified below in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing:

**ADDRESSEES:**

Bruce and Wendy Anderson  
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*Plaintiffs*


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DONALD E. CHRISTOPHER, ESQUIRE  
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*Defendant and Attorney for Defendant Christopher*

MICHAEL Y. McCORMICK, ESQUIRE  
1900 West Loop South, Suite 700  
Houston, Texas 77027  
*Defendant*

This 24th day of January 2008.

 FBV# 13488  
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