

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

|                                   |   |                        |
|-----------------------------------|---|------------------------|
| FIFTH SEASON FINANCIAL, LP,       | ) |                        |
|                                   | ) |                        |
| Plaintiff,                        | ) |                        |
|                                   | ) |                        |
| v.                                | ) | 1:16-cv-1458 (LMB/MSN) |
|                                   | ) |                        |
| BRYNDA E. PARKER, <u>et al.</u> , | ) |                        |
|                                   | ) |                        |
| Defendants.                       | ) |                        |

ORDER

Plaintiff Fifth Season Financial L.P. (“Fifth Season”) filed this interpleader action naming Brynda E. Parker (“Parker”) and Jawad Bukhari (“Bukhari”) as claimants. For the reasons that follow, this Court has determined that it lacks subject-matter jurisdiction and therefore that this action should be dismissed and refiled in state court.

Although no party has raised the issue, this Court remains under an independent obligation to assure itself of subject-matter jurisdiction at all times. Arbaugh v. Y&H Corp., 546 U.S. 500, 514 (2006). An interpleader action brought under 28 U.S.C. § 1335(a) may be brought if there are “two or more adverse claimants, of diverse citizenship.” The Supreme Court has determined that this statute imposes a requirement of minimal diversity, meaning that at least two claimants must be domiciled in different states. State Farm Fire & Cas. Co. v. Tashire, 386 U.S. 523, 530–31 (1967); see also Allstate Ins. Co. v. Turner, 2002 WL 531002, at \*1 (S.D.N.Y. Apr. 8, 2002). Here, all claimants are residents of, and therefore domiciled in, Virginia. See Compl. ¶¶ 6–7. Because the requirement of minimal diversity is not satisfied, this Court does not have

subject-matter jurisdiction over this interpleader action.<sup>1</sup> See State Farm, 386 U.S. at 531.

Accordingly, the interpleaded funds will be returned to Fifth Season so it may file an interpleader action in the Virginia Beach Circuit Court, which is best suited to handle this litigation as it is also adjudicating the ongoing guardianship dispute between the claimants. Consequently, it is hereby

ORDERED that the \$465,052.75 deposited in the registry of the Court, along with any interest accrued, be and is RETURNED to Fifth Season, with the exception of 10% of the interest, which will be retained by the court to cover its expenses; and it is further

ORDERED that Fifth Season be and is entitled to retain \$7,600.00 of the interpleaded funds for its attorney fees and expenses in filing this civil action and the filing fee in state court; and it is further

ORDERED that this civil action be and is DISMISSED WITHOUT PREJUDICE and that plaintiff Fifth Season file a new interpleader action in the Virginia Beach Circuit Court forthwith.

The Clerk is directed to forward copies of this Order to counsel of record.

Entered this 28<sup>th</sup> day of April, 2017.

Alexandria, Virginia

/s/   
\_\_\_\_\_  
Leonie M. Brinkema  
United States District Judge

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<sup>1</sup> Fifth Season also pleaded jurisdiction under the ordinary diversity statute, 28 U.S.C. § 1332; however, Fifth Season would have been dismissed from this civil action today in any event. As it was the only non-Virginia party, diversity would have been destroyed and the same result would have obtained.