

An action may only be maintained in federal court based on diversity jurisdiction if the parties are citizens of different states and the amount in controversy exceeds \$75,000. *See* 28 U.S.C. § 1332. Here, it is undisputed that the amount in controversy exceeds \$75,000 because the Plaintiff seeks to recover a \$298,248.18 termination payment he alleges that he was promised by Allstate, as well as statutory penalties under the Massachusetts Wage Law. (Docket No. 1-1). But the parties disagree about whether Defendants Glenn Shapiro and Scott Blume were Massachusetts citizens when the case was filed on August 17, 2020. Because the Plaintiff is a Massachusetts citizen, if either Shapiro or Blume were also citizens of Massachusetts at that time, this Court has no jurisdiction to hear the case, and must remand it to state court. *Bank One v. Montle*, 964 F.2d 48, 49 (1st Cir. 1992) (remarking that an individual’s citizenship is determined at the time of suit).

“Jurisdictionally speaking, residency and citizenship are not interchangeable.” *Valentin v. Hosp. Bella Vista*, 254 F.3d at 361 n. 1 (1st Cir. 2001). “Citizenship for diversity purposes is domicile, and domicile is the place where one is present and intends to stay.” *Rodriguez v. Señor Frog's de la Isla, Inc.*, 642 F.3d 28, 32 (1st Cir. 2011). “A person can only have one domicile at a time.” *Bank One* at 53. To change domiciles, a person “must move to a new state in which she intends to remain indefinitely.” *Hawes v. Club Encuestre el Comandante*, 598 F.2d at 698, 701 (1st Cir. 1979).

A variety of factors are relevant to determine a party’s domicile, including: “current residence; voting registration and voting practices; location of personal and real property; location of brokerage and bank accounts; membership in unions, fraternal organizations, churches, clubs and other associations; place of employment and business; driver’s license and other automobile registration; [and] payment of taxes. *Garcia Perez v. Santaella*, 364 F.3d 348, 350 (1st Cir. 2004). “No single factor is dispositive, and the analysis focuses not simply on the number of contacts with

the purported domicile, but also on their substantive nature.” *Id.* “Once challenged, the party invoking diversity jurisdiction must prove domicile by a preponderance of the evidence.” *Id.*

Glenn Shapiro

Untangling Shapiro’s many ties to Illinois and Massachusetts is a Gordian process.

Prior to 2016, Shapiro worked in Boston and lived with his wife in a home they purchased in 2004 in Longmeadow, Massachusetts. (Docket No. 7, Ex. A ¶ 3; Docket No. 12-1). In April 2016, Shapiro accepted a new position with Illinois-based Allstate. (Docket No. 7, Ex. A ¶ 3). Shapiro and his wife moved to Illinois and purchased a townhome in Glenview, Illinois, but they retained their Longmeadow property. (Docket No. 17-2, ¶ 5). In 2019, they sold the Glenview townhome and purchased another property in Northbrook, Illinois. (¶ 5). Shapiro spends the majority of the year at the Northbrook residence, though before the COVID-19 pandemic he often spent weekends at a third home he bought in Fort Lauderdale in 2019. (¶ 8). Since 2016, he has paid Illinois state income taxes and listed Illinois as his state of residence on his federal tax returns. (¶ 15).

Shapiro was in Ft. Lauderdale for the weekend of March 12-15, 2020, when he learned that the Allstate offices in Illinois had been closed for the unforeseeable future due to the COVID-19 pandemic. (¶ 11). He and his wife sheltered in place in Ft. Lauderdale for several weeks, then returned to Longmeadow in late April— their first visit since Christmas 2019— to be closer to their children, grandchildren, and two family members with serious health issues. (¶ 11-12). When this lawsuit was filed on August 17, the Shapiros were still living in Longmeadow, though they have since shuffled between their homes in Massachusetts and Illinois.

Shapiro’s two cars are registered in Illinois, but he has maintained his Massachusetts driver’s license. (¶ 9-11). Plaintiff also points out that the Shapiros used their Massachusetts

Longmeadow address on the quitclaim deed of the house they purchased for Shapiro's mother, and that they recorded a homestead exemption for the Longmeadow house in 2012, four years before the beginning of Shapiro's work for Allstate. (Docket Nos. 12-3, 12-5). There is some confusion in the record about the Shapiro's voting practices; the Plaintiffs have provided public records which indicate that the Shapiros remain registered to vote in Massachusetts, while the Defendants have provided public records that show the Shapiros are also registered to vote in Illinois. (Docket Nos. 12-4, 17-2). Mr. Shapiro has requested an absentee ballot from Cook County and avers he will not vote in Massachusetts in the upcoming election. (Docket Nos. 12 at 2; 17-2 at ¶ 20).

Shapiro's charitable endeavors are divided between New England and Illinois. He has been a board member for Chicago-based SitStayRead since 2017, though he and his wife also started a Connecticut-based veterinary care nonprofit that partners with animal shelters and veterinarians in Illinois and Boston. (¶ 17). The Plaintiff alleges, based on "information and belief," that Shapiro remains a member and frequent golfer at Twin Hills Country Club in Longmeadow, and listed Longmeadow as his primary residence on a home insurance policy; Shapiro says he cancelled his Twin Hills membership in 2010, and cannot remember golfing there at any point in the past decade. (Docket Nos. 12 at 2; 17-2 at ¶ 20).

Shapiro and his wife have put their Northbrook home on the market, and plan to downsize to a smaller residence in Illinois. (Docket No. 17-2 at ¶18-19). They state that they have intended to make Illinois their home since 2016, and that despite their periodic trips to Massachusetts or Florida, it was always their intention to return there. *Id.* This year, the COVID-19 pandemic has prolonged their absence from Illinois, where they plan to return whenever the Allstate offices reopen. *Id.*

Despite Shapiro's retention of his Massachusetts driver's license and the Longmeadow property, Defendants have offered enough evidence to demonstrate by a preponderance of the evidence that he remained a citizen of Illinois in August 2020 when this suit was filed. None of the evidence that Plaintiff has offered shows that Shapiro spends a majority of his time in Massachusetts, even if he owns property and periodically maintains a residence here. Indeed, Shapiro maintains full-time employment in Illinois. His charitable commitments in Illinois undermine the Plaintiff's narrative that Shapiro is merely a long-distance commuter, with no ties to the broader Chicago community, or intent to return to Illinois. That Shapiro maintained – even renewed – his Massachusetts driver's license and continues to use his Massachusetts address on some government documents does not show physical presence or an intent to remain in Massachusetts sufficient enough to count him as one of its citizens. Moreover, the two Illinois vehicle registrations are more persuasive indicators of his physical presence; unlike Massachusetts driver's licenses, Illinois vehicle registrations must be renewed on an annual basis. *Compare* 625 Ill. Comp. Stats. 5/3 § 2-412 *with* Mass. Gen. L. ch. 90, § 8.

The First Circuit accords substantial weight in citizenship determinations about where a party works and keeps their personal possessions. In *Valentin*, the First Circuit affirmed that a person who traveled from Puerto Rico to Florida to obtain medical treatment was not a Florida citizen, even though she “harbored a vaguely defined inclination to move to Florida at some point in the not-too-distant future” and had obtained a Florida driver's license and banking card, taken a Florida nursing test, and applied to Florida-based nursing jobs. *Valentin v. Hosp. Bella Vista*, 254 F.3d at 361, 367 (1st Cir. 2001). The *Valentin* Court observed that the plaintiff trying to assert Floridian citizenship had kept her job, vehicle registration, and the bulk of her personal belongings

in Puerto Rico. *Id.* at 366. As in *Valentin*, there is no dispute here that Shapiro's job has been based in Illinois since 2016, or that his vehicles are registered there.

Furthermore, temporary relocations to other states, even if they last a period of months, do not automatically convert a party's citizenship. In *Aponte-Davila*, the First Circuit held that a truck driver based in Texas who travelled to Puerto Rico to marry but remained there several months to recuperate after an accident left him temporarily paralyzed remained a citizen of Texas, even if he received medical coverage through Puerto Rico's health plan, applied for a disability parking permit, and obtained a Puerto Rican driver's license. *Aponte-Davila v. Municipality of Caguas*, 828 F.3d 40, 47-48 (1st Cir. 2016). Much of the evidence linking the truck driver to Puerto Rico was tied to his medical treatment, rather than plans to permanently remain outside of Texas once his treatment was complete. Just like Shapiro, the *Aponte-Davila* Court noted that the truck driver might have shuffled between states, but that his domicile was the state where he routinely returned to work over a number of years.

Because Defendants have shown by a preponderance of the evidence that Shapiro is a citizen of Illinois, his citizenship does not destroy the complete diversity required for the Court to assert jurisdiction.

Scott Blume

Blume denies the Plaintiff's claim that he is a Massachusetts citizen and resident of 198 Charlton Road, Sturbridge, Massachusetts. (Docket No. 7, Ex. B at ¶ 8). In his affidavit, Blume states that he works out of Allstate's Sturbridge office, but has been a resident of Glastonbury, Connecticut since 2018. The Plaintiff has not offered any evidence to rebut Blume's statements that he has never voted, paid taxes, or resided in Massachusetts. (*Id.* at ¶¶ 5,9). An internet search indicates that 198 Charlton Road is listed by a property management company as commercial real

estate property used for medical offices. SHOWCASE.COM, 198 Charlton Rd Office/Medical for Rent, <https://www.showcase.com/198-charlton-rd-sturbridge-ma-01566/11444768/> (last visited October 27, 2020). Absent any additional showing by the Plaintiff why Blume should be deemed a citizen of Massachusetts, Defendants have met their burden as to Blume's citizenship.

Conclusion

Defendants have met their burden to show by a preponderance of the evidence that complete diversity exists between the Plaintiff and each Defendant. Since the parties agree that the amount in controversy requirement has been satisfied, the Court has diversity jurisdiction to hear this case. The Plaintiff's Motion to Remand (Docket No. 11) is ***denied***.

SO ORDERED

/s/ TIMOTHY S. HILLMAN
DISTRICT JUDGE