

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

LEE MULLER,

Plaintiff,

v.

VENTURE GLOBAL LNG, INC.,

Defendant,

Case No. 1:23-cv-00880-LMB-LRV

**MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT VENTURE GLOBAL LNG,  
INC.’S MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION  
PURSUANT TO FED. R. CIV. P. 12(b)(1)**

**I. INTRODUCTION**

Plaintiff Lee Muller brings this action alleging breach of contract claims arising out of stock option agreements with Defendant Venture Global LNG, Inc. (“Venture Global”), for whom he previously served as an advisory board member. Plaintiff’s Complaint invokes federal jurisdiction under 28 U.S.C. §1332, which requires complete diversity of citizenship of the parties—*i.e.*, that the plaintiffs and defendants be citizens of different states. The face of the Complaint, however, clearly shows that no such diversity exists.

Plaintiff asserts that he is “a United States Citizen currently residing in London, UK.” Compl. ¶ 11. Longstanding Supreme Court precedent holds that “in order to be a citizen of a State within the meaning of the diversity statute, a natural person must both be a citizen of the United States *and* be domiciled within the State.” *Newman-Green, Inc. v. Alfonzo-Larrain*, 490 U.S. 826, 828 (1989). United States citizens residing abroad, like Plaintiff, are considered

“stateless” for purposes of diversity jurisdiction, and cannot invoke diversity as a basis for federal subject matter jurisdiction. *Id.* “The presence of a single such expatriate party destroys diversity jurisdiction for the entire action.” *Whitehead v. Grand Duchy of Lux.*, 172 F.3d 46 (4th Cir. 1998) (per curiam) (unpublished decision), 1998 WL 957463, at \*5. Plaintiff’s residence in the United Kingdom defeats diversity in this matter. Because this Court lacks subject matter jurisdiction, it must dismiss this case.

## II. LEGAL STANDARDS

As courts of limited jurisdiction, Federal courts may hear and decide cases only when given the authority to do so by the United States Constitution and by federal statute. *Cooper v. Productive Transp. Servs., Inc. (In re Bulldog Trucking, Inc.)*, 147 F.3d 347, 352 (4th Cir. 1998). A defendant may move under Rule 12(b)(1) to dismiss a case for lack of subject matter jurisdiction. *A.W. ex rel Wilson v. Fairfax Cnty. Sch. Bd.*, 548 F. Supp. 2d 219, 221 (E.D. Va. 2008). Plaintiff bears the burden of proving that jurisdiction exists in federal court. *Adams v. Bain*, 697 F.2d 1213, 1219 (4th Cir. 1982).

Federal diversity jurisdiction is available in cases arising between “citizens of different states” or a citizen of a state and a citizen of a foreign state in which the amount in controversy exceeds \$75,000. 28 U.S.C. § 1332(a). Diversity jurisdiction requires “parties of completely diverse state citizenship.” *Elliott v. Am. States Ins. Co.*, 883 F.3d 384, 394 (4th Cir. 2018) (citing 28 U.S.C. § 1332(a)(1)).

### III. ARGUMENT

Based on the face of the Complaint, this Court lacks subject matter jurisdiction over this case because Plaintiff Lee Muller, who is not a citizen of any state, destroys complete diversity.<sup>1</sup> *Whitehead v. Grand Duchy of Lux.*, 172 F.3d 46 (4th Cir. 1998) (per curiam) (unpublished decision), 1998 WL 957463, at \*5. Under 28 U.S.C. §1332, diversity jurisdiction only exists between “(1) citizens of different States; (2) citizens of a State and citizens or subjects of a foreign state . . . ; (3) citizens of different States and in which citizens or subjects of a foreign state are additional parties; and (4) a foreign state . . . as plaintiff and citizens of a State or of different States.” 28 U.S.C. §1332(a)(1)–(4).

Plaintiff unambiguously alleges that he is a citizen of the United States who resides in the United Kingdom. Compl. ¶ 11. The Complaint further alleges that Venture Global is incorporated in Delaware with its principle place of business in Virginia. *Id.* ¶ 12. While Plaintiff alleges that he is *not* a citizen of Virginia or Delaware, he does not allege that he is a citizen of any other state—nor could he, given his residence in the United Kingdom. *Id.* ¶ 11. It is well-established that United States citizens residing abroad do not qualify for diversity jurisdiction under any of the four categories of 28 U.S.C. §1332. A United States citizen who lives abroad is not a citizen of *any* state because he is not domiciled in the United States; he is considered “stateless” for purposes of diversity jurisdiction. *Newman-Green, Inc. v. Alfonzo-Larrain*, 490 U.S. 826, 828 (1989); *Whitehead*, 1998 WL 957463, at \*5.

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<sup>1</sup> Plaintiff alleges only diversity jurisdiction under 28 U.S.C. §1332 as a basis for federal jurisdiction. Plaintiff asserts only state law claims of breach of contract and breach of fiduciary duty, so no other basis for federal court jurisdiction exists.

Under such circumstances, there is no diversity jurisdiction because the plaintiff is neither a citizen of a state nor is he an alien. *See Newman-Green, Inc.*, 490 U.S. at 828. As the Fourth Circuit explained:

Though diversity jurisdiction extends to suits between United States citizens domiciled in different states and between citizens so domiciled and aliens, it does not include United States citizens domiciled abroad, for they are neither aliens nor citizens of any state. “In order to be a citizen of a State within the meaning of the diversity statute, a natural person must both be a citizen of the United States *and* be domiciled within the State.” The presence of a single such expatriate party destroys diversity jurisdiction for the entire action.

*Whitehead*, 1998 WL 957463, at \*5 (quoting *Newman-Green, Inc.*, 490 U.S. at 828); *see also Freidrich v. Davis*, 767 F.3d 374, 378 (3d Cir. 2014) (“Thus, American citizens living abroad cannot be sued (or sue) in federal court based on diversity jurisdiction as they are neither ‘citizens of a State,’ *see* 28 U.S.C. § 1332(a)(1), nor ‘citizens or subjects of a foreign state,’ *see id.* at § 1332(a)(2).”); *D.B. Zwirn Special Opportunities Fund, L.P. v. Mehrotra*, 661 F.3d 124, 126 (1st Cir. 2011) (per curiam) (“[C]itizens of the United States and other entities still might be citizens of no state at all under the diversity statute. For instance, United States citizens who are domiciled abroad are citizens of no state; their “‘stateless’ status destroy[s] complete diversity under § 1332(a)(3), and [their] United States citizenship destroy[s] complete diversity under § 1332(a)(2).” (alterations in original) (quoting *Newman-Green, Inc.*, 490 U.S. at 829.); *ISI Int’l, Inc. v. Borden Ladner Gervais LLP*, 316 F.3d 731, 733 (7th Cir. 2003) (same); *Cresswell v. Sullivan & Cromwell*, 922 F.2d 60, 68–69 (2d Cir. 1990) (same).

Under this clear precedent, Plaintiff Muller, a United States citizen residing in the United Kingdom with no domicile in any U.S. state, is “stateless” for the purposes of diversity jurisdiction, and cannot sue or be sued in diversity jurisdiction. Without complete diversity, the Court lacks subject matter jurisdiction and must dismiss Plaintiff Muller’s Complaint.

#### IV. CONCLUSION

For the foregoing reasons, Venture Global, through counsel, moves this Court to dismiss the Complaint for lack of subject matter jurisdiction under Federal Rule of Civil Procedure 12(b)(1).

Dated: July 31, 2023

Respectfully submitted,

/s/ Ryan Scarborough  
Ryan Scarborough (VSB No. 43170)  
M. Elaine Horn (*pro hac vice* pending)  
Emily Renshaw Pistilli (*pro hac vice* pending)  
Hope E. Daily (*pro hac vice* pending)  
WILLIAMS & CONNOLLY  
680 Maine Avenue SW  
Washington, DC 20024  
Telephone: (202) 434-5000  
rscarborough@wc.com  
ehorn@wc.com  
epistilli@wc.com  
hdaily@wc.com

*Counsel for Venture Global LNG, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 31, 2023, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing to the following:

Gerry Silver  
1633 Broadway  
New York, NY 10019  
212-660-3096  
Email: gsilver@sullivanlaw.com

Michael T. Dyson  
Sullivan & Worcester LLP  
1666 K Street, NW  
Washington, DC 20006  
202-775-1200  
Email: mdyson@sullivanlaw.com

*Counsel for Plaintiff Lee Muller*

/s/ Ryan Scarborough  
Ryan Scarborough (VSB No. 43170)  
M. Elaine Horn (*pro hac vice* pending)  
Emily Renshaw Pistilli (*pro hac vice* pending)  
Hope E. Daily (*pro hac vice* pending)  
WILLIAMS & CONNOLLY  
680 Maine Avenue SW  
Washington, DC 20024  
Telephone: (202) 434-5000  
rscarborough@wc.com  
ehorn@wc.com  
epistilli@wc.com  
hdaily@wc.com

*Counsel for Venture Global LNG, Inc.*