

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

Gary Conway,

Plaintiff,

v.

Colonial Penn Life Insurance Company
et al.,

Defendants.

Case No. 3:22-cv-50230

Honorable Iain D. Johnston

MEMORANDUM OPINION AND ORDER

Pro se plaintiff Gary Conway continues this action against Colonial Penn Life Insurance Company and its president, Joel Schwartz, with an amended complaint alleging that he is entitled to relief because Colonial Penn sold to his sister an “unauthorized” and “fraudulent” policy insuring his life and now refuses to disclose to him any information about it.¹ Dkt. 44 at 3, 9.

Conway’s amended complaint continues to fail to establish this Court’s subject-matter jurisdiction. “The party invoking federal jurisdiction bears the burden of establishing that it exists.” *Sykes v. Cook Inc.*, 72 F.4th 195, 205 (7th Cir. 2023).

Conway’s complaint refers in passing to a violation of his “constitutional rights.” Dkt. 44 at 7. As the defendants note, this is not a “serious effort” to invoke federal question jurisdiction, and thus represents a waiver of any such argument.

¹ There is also some discussion about how, in 2015, “these people orchestrated” a hernia repair surgery—the significance of this to his claim is entirely unclear. Dkt. 44 at 7-8, 14.

Dkt. 47 at 2. Even if the merits were reached, the Court cannot discern any conceivable basis for federal question jurisdiction as Conway has pleaded his claim. This theory of jurisdiction therefore fails.

“When the parties allege residence but not citizenship, the court must dismiss the suit.” *Guar. Nat. Title Co. v. J.E.G. Assocs.*, 101 F.3d 57, 59 (7th Cir. 1996). *A fortiori*, because Conway has failed to allege either residency or citizenship, without any other basis of jurisdiction, this suit must be dismissed.

A dismissal for lack of subject matter jurisdiction must be without prejudice. This action is terminated.

Date: February 23, 2024

A handwritten signature in black ink, appearing to read 'Iain D. Johnston', written over a horizontal line.

Honorable Iain D. Johnston
United States District Judge