

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT

STEVEN ZIELINSKI, et. al.,	:	
Plaintiffs	:	
	:	
v.	:	CIVIL ACTION NO.
	:	3:06-cv-1364 (JCH)
TYMETRIX, INC., et. al.,	:	
Defendants	:	MARCH 13, 2007

**RULING ON DEFENDANTS' MOTIONS TO DISMISS AND PLAINTIFFS' MOTION TO AMEND/CORRECT AMENDED COMPLAINT [Doc. Nos. 9, 11, & 15]**

On January 16, 2007, the defendants, Tymetrix, Inc. and Robert Heinemann, each filed a Motion to Dismiss [Doc. Nos. 9 & 11, respectively] on the grounds that there was no subject matter over plaintiffs' Amended Complaint [Doc. No. 4] because it did not assert complete diversity between the plaintiffs and the defendants. The Amended Complaint listed plaintiffs Steven Zielinski and Nancy Doyle as both residing in Connecticut.<sup>1</sup> See Amended Compl. at ¶¶ 4-5. Defendant Tymetrix, Inc. is a Delaware corporation with a principal place of business in Hartford, Connecticut. Id. at ¶ 6. Defendant Robert Heinemann is a resident of Florida. Id. at ¶ 7.

On February 16, 2007, in response to defendants' Motions to Dismiss, plaintiffs filed a Motion to Amend/Correct Amended Complaint [Doc. No. 15] that removed Tymetrix, Inc. as a defendant, thereby curing the deficiency. The court GRANTS the plaintiffs' Motion to Amend/Correct Amended Complaint [**Doc. No. 15**], and thereby DENIES defendants' Motions to Dismiss [**Doc. Nos. 9 & 11**] as moot because there is

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<sup>1</sup>The court notes that it is citizenship and not residency that determines diversity. See 28 U.S.C. § 1332(a)(1).

now complete diversity between plaintiffs Zielinski and Doyle and defendant Heinemann.

However, the court orders the plaintiffs to file, within 10 days of this Order, a Third Amended Complaint, alleging, if they can, the diverse citizenship of the parties.

**SO ORDERED.**

Dated at Bridgeport, Connecticut this 13th day of March, 2007.

/s/ Janet C. Hall  
Janet C. Hall  
United States District Judge