

1  
2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

8 ERIC WATSON, et al.,

9 Plaintiffs,

10 v.

11 MIKE ROFF, et al.,

12 Defendants.

CASE NO. C21-1622 RSM

ORDER

13  
14 **I. INTRODUCTION**

15 This matter is before the Court sua sponte for consideration of the Amended Complaint  
16 filed, at the Court's request, by Plaintiffs Eric and Sarah Watson. Dkt. #15 Additionally, the  
17 Court addresses the Applications for Court-Appointed Counsel that Plaintiffs have recently filed.  
18 Dkts. ##17-18. Finding that the Amended Complaint does not establish a basis for invoking this  
19 Court's subject matter jurisdiction, the Court dismisses the action without prejudice and denies  
20 the pending motions for appointment of counsel.

21 **II. BACKGROUND**

22 **A. Plaintiffs' First Complaint and the Court's Order to Show Cause**

23 Plaintiffs' first complaint told the story of their difficulties with placing their boat, a  
24 wooden 50-foot 1962 Chris Craft Constellation, in dry storage in Washington. *See generally*

1 Dkt. #14. Plaintiffs alleged that they had entered into a verbal agreement to place their boat in  
2 dry storage with Latitude Marine Services, LLC so that holes in the hull could be repaired. The  
3 boat has remained in Latitude Marine’s custody since it was delivered on June 12, 2020, but no  
4 repairs have been made. Instead of making the necessary repairs, Plaintiffs indicate that Latitude  
5 Marine has acted in bad faith to further damage their boat, has forced them to enter into a written  
6 agreement, and has frustrated Plaintiffs’ access to the boat and their attempts to repair the boat  
7 on their own. Plaintiffs indicate that despite their efforts to comply with their agreements,  
8 Latitude Marine now maintains that it will begin eviction proceedings, sell the boat at auction,  
9 or both. Seeking relief, Plaintiffs filed their first complaint against the individual employees—  
10 Mike Roff, KJ Roff, Chrisi Dite, and Bob Cornelius—of Latitude Marine with whom they had  
11 interacted.

12         Reviewing Plaintiffs’ complaint sua sponte, the Court noted that Plaintiffs did not  
13 establish a clear basis for invoking this Court’s subject matter jurisdiction. Dkt. #8. The Court  
14 noted that Plaintiffs could not establish federal question jurisdiction because they did not  
15 maintain that their legal claim was premised on the United States Constitution or a federal statute  
16 and, while Plaintiffs appeared to believe they had been discriminated against, they did not  
17 indicate membership in any protected class. *Id.* at 4. Likewise, the Court noted that Plaintiffs  
18 could not invoke the Court’s diversity jurisdiction because they alleged that they were citizens  
19 of Washington and that the named defendants were also citizens of Washington. *Id.* Lastly, the  
20 Court noted that Plaintiffs could not invoke the Court’s admiralty jurisdiction because any tort  
21 claim or contract claim was unrelated to the boat’s use or commerce in navigable waters. *Id.* at  
22 5–6. Because it appeared that Plaintiff’s complaint fell outside of the Court’s subject matter  
23 jurisdiction, the Court ordered Plaintiffs to file an amended complaint establishing a basis for the  
24 Court’s jurisdiction. *Id.* at 7.

1           **B. Plaintiff’s Amended Complaint**

2           Plaintiffs timely filed an amended complaint, expanding on their boat ownership saga.  
3 Plaintiffs further allege that they purchased the boat in San Diego, California, intending to sail  
4 the boat to Tacoma, Washington. Dkt. #15 at 3. Upon embarking, Plaintiffs determined that the  
5 boat’s cruising speed would not allow them to reach Tacoma in their available timeframe. *Id.* at  
6 4. Accordingly, Plaintiffs contracted with Moger Yacht Transport, Warren Moger Sr., and  
7 Warren Moger Jr. (the “Mogers”) to have the boat transported by land to Portland, Oregon, where  
8 Plaintiff’s planned to resume their voyage. *Id.* However, the Mogers damaged the boat during  
9 transport and the boat could not be launched in Portland, Oregon because of holes in the hull. *Id.*  
10 at 4–5.

11           Disappointed in the condition of their boat, Plaintiffs sought to submit an insurance claim  
12 and repair the boat to a seaworthy condition. *Id.* As a result, Plaintiffs had the Mogers transport  
13 the boat to Dikes Marine Services (“Dikes Marine”), in Scappoose, Oregon, for storage. *Id.* at 5.  
14 Plaintiffs allege that during the unloading process the boat was further damaged by the Mogers  
15 and/or Dikes Marine and/or Dikes Marine’s employees Debbie Helms, Bruce Helms, Edward  
16 Humfleet, and Dena Humfleet (collectively, the “Dikes Marine Employees”). *Id.* at 5–6. Despite  
17 the events accounting for the damage to their boat, Plaintiffs allege that their insurance company  
18 denied their claim partly because of actions taken by Dikes Marine or the Dikes Marine  
19 Employees on behalf of the insurance company and partly because of the insurance company’s  
20 unfounded conclusion that the damage had been caused by dry rot in the boat. *Id.* at 6–8. Unable  
21 to obtain appropriate relief from the Mogers or their insurance company and with no prospect of  
22 repairs at Dikes Marine, Plaintiffs had the boat transported to Latitude Marine, in Washington.  
23 *Id.* at 7–9. Plaintiffs’ amended complaint does not substantively expand on the actions taken by  
24 Latitude Marine or their employees.



1 \_\_\_, 138 S. Ct. 1719 (2018). Dkt. #15 at 9 (arguing that Latitude Marine’s flat refusal to repair  
2 their boat is “about the same treatment as the homosexuals got when they were refused service”).  
3 But—and even if the Court puts aside that *Masterpiece Cakeshop* was primarily a freedom of  
4 exercise case brought by a business, not a discrimination case brought by customers—Plaintiffs  
5 do not allege that they belong to any constitutionally protected class, merely that they have not  
6 been afforded a reasonable explanation of Latitude Marine’s refusal to repair the boat. The Court  
7 is mindful of Plaintiffs’ argument that they are “not legally educated in Law and use[] just  
8 common sense,” but the law requires more in this instance to invoke the jurisdiction of the federal  
9 courts.

## 10 **2. Plaintiffs Cannot Invoke the Court’s Diversity Jurisdiction**

11 The Court likewise finds that Plaintiffs’ amended complaint fails to adequately invoke  
12 the Court’s diversity jurisdiction. In this regard, Plaintiffs primarily take issue with the Court’s  
13 supposition that the value of their unseaworthy boat may be below the \$75,000 jurisdictional  
14 threshold. *Id.* at 11–12. But the more significant issue remains that Plaintiffs have not alleged  
15 complete diversity between the parties. *See In re Digimarc Corp. Derivative Litig.*, 549 F.3d  
16 1223, 1234 (9th Cir. 2008) (“Diversity jurisdiction requires complete diversity between the  
17 parties—each defendant must be a citizen of a different state from each plaintiff.”). Failing to  
18 address the lack of diversity between themselves and Latitude Marine, Plaintiffs instead attempt  
19 to add new allegations against parties that appear to be diverse—the Mogers, residents of  
20 California, and Dikes Marine and the Dikes Marine Employees, presumably residents of Oregon.

21 But Plaintiffs have already initiated a federal action in this District related to their claims  
22 against the Mogers. *See Watson v. Moger*, Case No. 20-cv-5344-RJB (W.D. Wash. 2020). That  
23  
24

1 case appears to have appropriately invoked the Court’s diversity jurisdiction<sup>1</sup> and ultimately  
2 asserted a federal question. *See id.*, Dkt. #37 at ¶¶ 4.1–4.10 (Plaintiffs’ second amended  
3 complaint asserting a claim under 49 U.S.C. § 14706, which provides a cause of action for  
4 damages to property during interstate transportation by “motor carriers”). But that action was  
5 resolved when the Court granted summary judgment in favor of the Mogers and is now the  
6 subject of a pending appeal before the United States Court of Appeals for the Ninth Circuit. *See*  
7 *Watson v. Moger*, Case No. 21-35774 (9th Cir. 2021). Plaintiffs may not reassert the same claims  
8 against the Mogers here.

9         While Plaintiffs’ alleged claims against Dikes Marine and the Dikes Marine Employees  
10 do not necessarily preclude diversity jurisdiction on their own, Plaintiffs are clear in their intent  
11 to pursue their claims against Dikes Marine and Latitude Marine. Yet, and as the Court noted  
12 above, diversity jurisdiction requires complete diversity between the parties. *See In re Digimarc*  
13 *Corp. Derivative Litig.*, 549 F.3d at 1234 (“Diversity jurisdiction requires complete diversity  
14 between the parties—each defendant must be a citizen of a different state from each plaintiff.”).  
15 Plaintiffs cannot manufacture diversity jurisdiction by adding a diverse party to their action  
16 against non-diverse defendants.

### 17         **3. Plaintiffs Cannot Invoke the Court’s Admiralty Jurisdiction**

18         Little needs to be added on the issue of admiralty jurisdiction beyond the Court’s  
19 discussion of the issue in its prior order. *See* Dkt. #8 at 5. Plaintiffs do little to argue that their  
20 legal claims fall within the Court’s admiralty jurisdiction. *See* Dkt. #15 at 3 (Plaintiffs indicating  
21 that they are “unsure if Admiralty Jurisdiction applies in this case” but arguing that “it should”).

---

22  
23 <sup>1</sup> Plaintiffs’ Second Amended Complaint in their prior Moger case specifically alleges that the  
24 amount in controversy exceeds \$75,000, that “Plaintiffs are Washington state residents,” and that  
“Defendants are California state residents with Moger Yacht Transport located in California.”  
*See Watson v. Moger*, Case No. 20-cv-5344-RJB, Dkt. #37 at ¶ 2.1 (W.D. Wash. Feb. 5, 2021).

1 Plaintiffs’ opinion, lacking any legal support, is insufficient to invoke this Court’s limited subject  
2 matter jurisdiction.

3 **4. Conclusion**

4 Plaintiffs have failed to adequately invoke the Court’s subject matter jurisdiction and  
5 Plaintiffs’ claims are therefore appropriately dismissed. The Court does so, however, without  
6 prejudice. This means that Plaintiffs are free to assert the same claims in other courts—such as  
7 the Washington State Courts—that may have jurisdiction to hear and consider Plaintiffs’ claims.

8 **B. Plaintiffs’ Motions to Appoint Counsel**

9 Lastly, the Court addresses Plaintiffs’ motions seeking that they be appointed counsel in  
10 this matter. The appointment of counsel is an uncommon occurrence. *See Weygandt v. Look*,  
11 718 F.2d 952, 954 (9th Cir. 1983) (in considering whether a case is an exceptional one warranting  
12 appointment of counsel, court must consider “both the likelihood of success on the merits and  
13 the ability of the petitioner to articulate his claims pro se in light of the complexity of the legal  
14 issues involved”). Due to the lack of any apparent basis upon which Plaintiffs can invoke the  
15 subject matter jurisdiction of this Court, the Court does not find this to be an appropriate case for  
16 the appointment of counsel. Accordingly, the motions are denied.<sup>2</sup>

17 **IV. CONCLUSION**

18 Having reviewed Plaintiffs’ amended complaint, their applications for the appointment  
19 of counsel, and the remainder of the record, the Court finds and ORDERS that:

- 20 1. All of the claims asserted in Plaintiffs’ Amended Complaint (Dkt. #15) are DISMISSED  
21 without prejudice.

22  
23  
24 <sup>2</sup> Still further, the Court’s dismissal of Plaintiffs’ claims makes their requests for the appointment  
of counsel moot.

1 2. Plaintiffs' Applications for Court-Appointed Counsel (Dkts. ##17-18) are DENIED, both  
2 substantively and as moot.

3 3. This matter is CLOSED.

4 4. The Clerk shall send a copy of this Order to Plaintiff Eric Watson<sup>3</sup> at 7807 Kapowsin  
5 Hwy. E., Graham, WA 98338.

6 DATED this 8<sup>th</sup> day of February, 2022.

7  
8 

9  
10 RICARDO S. MARTINEZ  
11 CHIEF UNITED STATES DISTRICT JUDGE

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24 

---

<sup>3</sup> Plaintiff Sarah M. Watson has registered to electronically file and receive electronic service in this case. Dkt. #11.