

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 99-7283**

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AUDELY SKYERS,

Plaintiff - Appellant,

versus

RUSTY BALTIMORE; BALTIMORE BOND COMPANY;  
PHILIP BALTIMORE,

Defendants- Appellees.

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Appeal from the United States District Court for the District of Maryland, at Baltimore. Peter J. Messitte, District Judge. (CA-99-2345-PJM)

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Submitted: December 16, 1999

Decided: December 22, 1999

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Before MURNAGHAN and MOTZ, Circuit Judges, and BUTZNER, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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Audely Skyers, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Audely Skyers appeals from the district court's order denying his motion to reconsider the dismissal of his diversity action. We find that the district court lacked subject matter jurisdiction over this action for breach of contract. Skyers' complaint only set forth a claim that, if true, would entitle him to \$4500 plus pre-judgment interest. See Saval v. BL Ltd., 710 F.2d 1027, 1033-34 (4th Cir. 1983) (noting that under Maryland law, punitive damages are not available on breach of contract claims absent a showing of actual malice). Because Skyers failed to allege any facts or claims supporting damages of at least \$75,000, the district court lacked subject matter jurisdiction. See 28 U.S.C.A. § 1332 (West Supp. 1999); see also Packard v. Provident Nat'l Bank, 994 F.2d 1039, 1045-46 (3d Cir. 1993) ("when it appears to a legal certainty that the plaintiff was never entitled to recover the jurisdictional amount, the case must be dismissed.") (citing St. Paul Mercury Indemnity Co. v. Red Cab Co., 303 U.S. 283, 289-90 (1938)). Accordingly, we affirm the district court's order. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED