

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

BOSSHARD BOGS, LLP,

Plaintiff,

v.

CLIFFSTAR CORPORATION,

Defendant.

ORDER

02-C-0034-C

This is a civil action for monetary relief in which plaintiff Bosshard Bogs, LLP is suing defendant Cliffstar Corporation for breach of contract and breach of duty of good faith. Plaintiff originally filed its complaint in the Circuit Court for Monroe County, Wisconsin. Defendant removed the action to this court pursuant to 28 U. S. C. §§ 1441 and 1446. Defendant alleges that this court has jurisdiction pursuant to 28 U. S. C. § 1332(a), diversity of citizenship.

Although neither party disputes diversity, the court has an independent obligation to insure that it exists. See generally Wild v. Subscription Plus, Inc., 292 F.3d 526 (7th Cir. 2002). Diversity jurisdiction requires complete diversity and claims in excess of the jurisdictional amount, currently set at \$75,000. 28 U. S. C. § 1332. Defendant alleges that

it is a Delaware corporation with its principal place of business in New York. Plaintiff alleges that it is a limited liability partnership with its principal place of business in Wisconsin. Defendant denies that plaintiff is a partnership and alleges that plaintiff is a limited liability company.

Whether plaintiff is a limited liability partnership or company, the test for determining plaintiff's citizenship is the same. The citizenship of either a limited liability partnership or a limited liability company is the citizenship of each of its partners or members, not the location of its principal place of business. See Cosgrove v. Bartolotta, 150 F.3d 729, 731 (7th Cir. 1998). Neither party has provided the court with any information regarding the citizenship of plaintiff's partners. If any of those partners are citizens of Delaware or New York, diversity jurisdiction does not exist. Therefore, before this action can proceed, defendant must submit information to the court showing the citizenship of each of plaintiff's partners. See NFLC, Inc. v. Devcom Mid-America, Inc., 45 F.3d 231, 237 (7th Cir. 1995) (citing McNutt v. General Motors Acceptance Corp. of Indiana, 298 U. S. 178, 189 (1936)) (the party seeking to invoke jurisdiction bears the burden of supporting its jurisdictional allegations by "competent proof").

ORDER

IT IS ORDERED that defendant Cliffstar Corporation may have until October 1, 2002, to provide this court with information regarding the citizenship of each partner of plaintiff Bosshard Bogs, LLP.

Entered this 16th day of September, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge