

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

ROBERT G. MERRITT,

Plaintiff,

v.

KLI, INC., f/k/a KELLER LADDERS, INC.
and ST. PAUL FIRE & MARINE INSURANCE
COMPANY,

Defendants.

ORDER

04-C-038-C

This is a civil action for monetary relief in which plaintiff Robert G. Merritt is suing defendants KLI, Inc., formerly known as Keller Ladders, Inc. and St. Paul Fire and Marine Insurance Company for negligence, strict liability and breach of warranty concerning plaintiff's accident with an 8-foot Keller fiberglass ladder manufactured by defendant KLI, Inc. Plaintiff filed his lawsuit against defendants on December 19, 2003 in the Circuit Court of Eau Claire County. Defendants removed the case to this court on January 23, 2004 on the basis of diversity jurisdiction. 28 U.S.C. § 1332.

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). In their notice of removal, defendants fail to verify the citizenship of St. Paul Fire and Marine Insurance Company. Therefore, before this lawsuit may proceed, defendants must submit an affidavit setting forth the citizenship of each plaintiff and defendant. See NLFC, Inc. v. Devcom Mid-America, Inc., 45 F.3d 231, 237 (7th Cir. 1995) (party seeking to invoke jurisdiction bears burden of supporting its jurisdictional allegations by competent proof).

ORDER

IT IS ORDERED that defendants KLI, Inc. and St. Paul Fire and Marine Insurance Company may have until October 25, 2004, to submit an affidavit setting forth the citizenship of each plaintiff and defendant for the purpose of determining the existence of diversity jurisdiction.

Entered this 18th day of October, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge