

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

BRAVA SALON SPECIALISTS, LLC,

Plaintiff,

v.

LABEL.M USA, INC. and SALONCENTRIC, INC,

Defendants.

ORDER

15-cv-631-bbc

In an order dated January 15, 2016, I found that defendant Label.M USA, Inc.'s notice of removal did not include sufficient allegations of diversity of citizenship to support this court's exercise of jurisdiction under 28 U.S.C. § 1332, the only alleged basis for jurisdiction in this case. In particular, Label.M did not identify the member or members of plaintiff Brava Salon Specialists, LLC.

In response, Label.M has filed a declaration from Jim Marcks, who avers that he is the sole member of plaintiff and that he is a "resident of the State of Wisconsin." Dkt. #29. This declaration gets Label.M closer to the mark, but it is still insufficient to show diversity of citizenship under this circuit's standards.

The Court of Appeals for the Seventh Circuit has stated in numerous cases that "[a]n allegation of residence is inadequate" to show citizenship under § 1332. McMahon v. Bunn-O-Matic Corp., 150 F.3d 651, 653 (7th Cir. 1998). See also In re Sprint Nextel

Corp., 593 F.3d 669, 673-74 (7th Cir. 2010); Craig v. Ontario Corp., 543 F.3d 872, 876 (7th Cir. 2008); Camico Mutual Insurance Co. v. Citizens Bank, 474 F.3d 989, 992 (7th Cir. 2007); Macken ex rel. Macken v. Jensen, 333 F.3d 797, 799 (7th Cir. 2003); Meyerson v. Harrah's East Chicago Casino, 299 F.3d 616, 617 (7th Cir. 2002). This is because an individual's citizenship under § 1332 is determined not by her residency, but by her "domicile," which is "the state in which [she] intends to live over the long run." Heinen v. Northrop Grumman Corp., 671 F.3d 669, 670 (7th Cir. 2012).

This circuit's jurisdictional requirements are neither new nor onerous, so Label.M. has little excuse for its repeated failures to get it right. In fact, the court of appeals has reprimanded and even sanctioned parties in multiple published opinions for showing insouciance about jurisdiction. Smoot v. Mazda Motors of America Inc., 469 F.3d 475 (7th Cir. 2006) (directing parties to show cause why they should not be sanctioned for failing to submit proper jurisdictional statement); BondPro Corp. v. Siemens Power Generation Corp., 466 F.3d 562 (7th Cir. 2006) (sanctioning lawyers \$1000 for inadequate jurisdictional statement); Belleville Catering Co. v. Champaign Market Place, L.L.C., 350 F.3d 691, 692-93 (7th Cir. 2003) (vacating jury verdict after determining that jurisdiction was not present: "The complaint should not have been filed in federal court . . . , the answer should have pointed out a problem . . . , and the magistrate judge should have checked all of this independently."); May Dept. Stores Co. v. Federal Insurance Co., 305 F.3d 597, 598 (7th Cir. 2002) ("[T]he district judge and the lawyers for the parties must do careful legal research to determine the citizenship of the party rather than content themselves with making a wild

stab in the dark.").

I will give Label.M one more opportunity to supplement its jurisdictional allegations.

If it fails this time, I am remanding the case to state court.

ORDER

IT IS ORDERED that defendant Label.M USA, Inc. may have until February 10, 2016 to file supplemental materials showing that jurisdiction is present in this case. If Label.M fails to respond by that date, the case will be remanded to the Circuit Court for Dane County, Wisconsin.

Entered this 5th day of February, 2016.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge