

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

LATINO FOOD MARKETERS, LLC,

Plaintiff,

v.

OLE MEXICAN FOODS, INC.,

Defendant.

ORDER

03-C-0190-C

In reviewing this case for the purpose of deciding the pending motion to dismiss, I realized belatedly that the affidavit filed in response to the court's order of August 5, 2003, is deficient. The affidavit speaks only of the "residences" of the members of the plaintiff limited liability corporation. Diversity depends upon citizenship, not residency. Citizenship equates generally with domicile, except that it requires the additional showing that the person is a citizen of the United States or an alien admitted to the United States for permanent residence. Dausch v. Rykse, 9 F.3d 1244 (7th Cir. 1993); America's Best Inns, Inc. v. Best Inns of Abilene, L.P., 980 F.2d 1072 (7th Cir. 1992); 13B Charles Alan Wright, et al, Federal Practice and Procedure: Jurisdiction 2d § 3611.

I will give plaintiff one more opportunity to establish that this court has jurisdiction

over this case. Plaintiff should note that the Court of Appeals for the Seventh Circuit has warned trial courts and litigants of the inadequacies of conclusory pleading. Dausch, 9 F.3d at 1245 n.1 (“It is, however, the duty of the plaintiff to state, in more than these conclusory terms, the basis for compliance with the jurisdictional norms of the diversity statute.”)

ORDER

IT IS ORDERED that plaintiff may have until November 17, 2003, in which to submit evidence showing that each of the members of the plaintiff limited liability corporation is a citizen of a state other than Georgia.

Entered this 5th day of November, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge