

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

NICHOLAS ADAMANY, WILLIAM
ADAMANY, JR., COREEN ADAMANY
and MIDWEST SECURITY INSURANCE,

Plaintiffs,

v.

CUB CADET CORP., MTD PRODUCTS, INC.
and MTD CONSUMER GROUP, INC.,

Defendants.

ORDER

04-C-224-C

In this civil action for monetary relief, plaintiffs allege that defendants are strictly liable and negligent with regard to injuries sustained by plaintiff Nicholas Adamany from one of defendants' lawn tractor models. Plaintiffs initiated the suit in federal court, alleging diversity jurisdiction.

Although no 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 complaint, plaintiffs allege that Nicholas, William and Coreen Adamany are citizens of Wisconsin and that defendants are citizens of Delaware and Ohio, but fail to

mention the citizenship of plaintiff Midwest Security Insurance. Furthermore, it is not clear whether Midwest Security Insurance is a corporation or some other type of business.

The party seeking to invoke jurisdiction bears the burden of supporting its jurisdictional allegations by “competent proof.” 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 Court of Appeals for the Seventh Circuit has interpreted this burden to mean that a party must show “to a reasonable probability that jurisdiction exists.” Chase v. Shop 'N Save Warehouse Foods, Inc., 110 F.3d 424, 427 (7th Cir. 1997).

Plaintiffs may have until May 4, 2005, to verify plaintiff Midwest Security Insurance’s type of business and, depending on the type of business, describe its citizenship as required by 28 U.S.C. § 1332. I note that if plaintiff Midwest Security Insurance is a corporation, plaintiffs must state its state of incorporation and its principal place of business. If it is a limited liability company, they must provide the citizenship of each of its members unless it is a limited liability *corporation*. Hoagland ex rel. Midwest Transit, Inc., v. Sandberg, 385 F.3d 737,739 (7th Cir. 2004).

ORDER

IT IS ORDERED that plaintiffs Nicholas Adamany, William Adamany, Jr., Coreen

Adamany and Midwest Security Insurance may have until May 4, 2005, to submit an affidavit setting forth the citizenship of plaintiff Midwest Security Insurance.

Entered this 28th day of April, 2005.

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