

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

INTERCON CONSTRUCTION, INC.,

Plaintiff,

v.

SOUTHEAST DIRECTIONAL DRILLING, L.L.C.,

Defendant.

ORDER

04-C-225-C

This is a civil action for monetary relief in which plaintiff, a Wisconsin corporation with its principal place of business located in Madison, Wisconsin, is suing defendant for breach of contract, restitution, negligent misrepresentation, fraud, and violation of Wisconsin unfair trade practices law, Wis. Stat. §100.18.

Although neither party disputes diversity, the court has an independent obligation to insure that it exists. See Wild v. Subscription Plus, Inc., 292 F.3d 526 (7th Cir. 2002). In their notice of removal, defendant fails to verify the citizenship of each plaintiff and defendant. For the purposes of diversity jurisdiction, the citizenship of a limited liability company is the citizenship of its members. See Belleville Catering Co. v. Champaign Market Place, LLC, 350 F.3d 691, 692 (7th Cir. 2003); Cosgrove v. Bartolotta, 150 F.3d 729, 731

(7th Cir. 1998). Furthermore, a party who wishes to invoke diversity jurisdiction must plead citizenship distinctly; pleading residency is insufficient. Salzstein v. Bekins Van Lines, Inc., 747 F. Supp. 1281, 1282 (N.D. Ill. 1990); Jones v. Hadican, 552 F.2d 249, 251, n. 3 (8th Cir. 1977); 15 James Wm. Moore et al., Moore's Federal Practice § 102.31 (3d. ed. 2003). Cf. Howell by Goerdt v. Tribune Entertainment Co., 106 F.3d 215 (7th Cir. 1997) (holding that "John Doe" defendants are not allowed in federal diversity suits "because the existence of diversity jurisdiction cannot be determined without knowledge of every defendant's place of citizenship").

Therefore, before this lawsuit may proceed, defendant must submit an affidavit setting forth the citizenship of each plaintiff and defendant, including the citizenship of partners or members of any partnership or LLC that is itself a plaintiff or 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 defendant Southeast Directional Drilling, L.L.C., may have until June 21, 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 15th day of June, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge