

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). For diversity jurisdiction to exist no party on one side of the case may have the same citizenship as any party on the other side. Strawbridge v. Curtiss, 2 U.S. 267, (1806) (holding that complete diversity is necessary for jurisdiction). Furthermore, 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).

Pursuant to the Court's order, defendant submitted an affidavit setting forth the citizenship of all parties to the case. This affidavit states that both the plaintiff, Intercon, and one defendant, Robert J. Schaaf, are citizens of Wisconsin. In light of this evidence, diversity jurisdiction is defeated and the case must be remanded to the Circuit Court for Dane County. Strawbridge, 2 U.S. at 267.

ORDER

IT IS ORDERED that this case is to be REMANDED to the Circuit Court for Dane County for lack of subject matter jurisdiction. The clerk of court is directed to return the record of this case to the Circuit Court for Dane County, Wisconsin.

Entered this 23rd day of June, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge