

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

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JAY J. SCHINDLER,

Plaintiff,

v.

JOSEPH C. SEILER and  
SYNTHES SPINE COMPANY, L.P.,

Defendants.  
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ORDER

05-C-0521-C

This civil action for monetary relief was removed to this court from the Circuit Court for Eau Claire County on August 26, 2005, by defendants Joseph Seiler and Synthes Spine Company L.P. Defendants have invoked this court's diversity jurisdiction, which requires complete diversity of citizenship and an amount in controversy of at least \$75,000. 28 U.S.C. § 1332.

On February 3, 2006, defendants submitted a motion for summary judgment. In connection with that motion, the parties have proposed the following facts as undisputed: (1) At the time this lawsuit was commenced, plaintiff was a citizen of South Dakota; (2) The amount in controversy exceeds \$75,000; (3) Defendant Joseph Seiler is a citizen of

Minnesota; and (4) “As a Delaware limited partnership with its principal place of business in Pennsylvania, Sythes is a citizen of both Delaware and Pennsylvania.” Dfts.’ PFOF, dkt. #35, at 1; Plt.’s Resp. to Dfts.’ PFOF, dkt. #45, at 2.

For the purpose of diversity jurisdiction, *corporations* are citizens of the states in which they are incorporated and have their principal place of business. 28 U.S.C. § 1332(c)(1); Metropolitan Life Ins. Co. v. Estate of Cammon, 929 F. 2d 1220, 1223 (7th Cir. 1991). However, this rule does not apply to partnerships and other non-corporate business entities. Limited liability partnerships and limited liability companies (but not limited liability corporations) have the same citizenship as each of their partners. Therefore, if one partner, general or limited, is a citizen of the same state as an opposing party, complete diversity does not exist. Hoagland ex rel. Midwest Transit, Inc. v. Sandberg, Phoenix and von Gontard, 385 F.3d 737 (7th Cir. 2004); Cosgrove v. Bartolotta, 150 F.3d 729, 731 (7th Cir. 1998). In this case, the parties have not provided the court with information regarding the citizenship of each partner of defendant Synthes Spine Company, L.P.; therefore, it is impossible to know whether any partner is, like plaintiff, a citizen of South Dakota.

This court has an independent obligation to insure that subject matter jurisdiction exists. Wild v. Subscription Plus, Inc., 292 F.3d 526 (7th Cir. 2002). The Court of Appeals for the Seventh Circuit has reiterated the need for litigants to meticulously review the limits of federal jurisdiction to prevent the waste of federal judicial resources. Belleville Catering

Co. v. Champaign Market Place, L.L.C., 350 F.3d 691 (7th Cir. 2003). The federal courts are “always obliged to inquire sua sponte whenever a doubt arises as to the existence of federal jurisdiction.” Tylka v. Gerber Prods. Co., 211 F.3d 445, 447-48 (7th Cir. 2000).

As the parties seeking to remove this case, defendants bear the burden of showing that federal jurisdiction existed at the time of removal. Chase v. Shop n' Save Warehouse Foods, Inc., 110 F.3d 424, 427 (7th Cir. 1997) (“party seeking to invoke federal diversity jurisdiction bears the burden of demonstrating that the complete diversity and amount in controversy requirements are met.”). Because it would be a waste of limited judicial resources to proceed further in a case where jurisdiction may not be present, I will give defendants two weeks in which to produce facts verifying their citizenship. Specifically, defendant Synthes Spine Company, L.P., should provide the names and citizenship of each of its partners.

#### ORDER

IT IS ORDERED that defendant Synthes Spine Company, L.P., will have until April 3, 2006, to provide this court with verification of its citizenship. Failure to comply with this

deadline will result in the remand of the case to state court.

Entered this 20th day of March, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge