

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

KEN and SANDRA BEGALKE
d/b/a KEN'S SEPTIC CLEANING,

Plaintiffs,

v.

STERLING TRUCK CORPORATION
and FREIGHTLINER, LLC,

Defendants.

ORDER

06-C-186-C

This civil action for injunctive and monetary relief was removed to this court from the Circuit Court for Chippewa County on April 7, 2006, by defendants Sterling Truck Corporation and Freightliner LLC. 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 April 14, 2006, defendants submitted a motion to dismiss, which was converted to a motion for summary judgment on May 3, 2006. In connection with that motion, the following facts are undisputed: (1) plaintiffs are citizens of Wisconsin; (2) the amount in controversy exceeds \$75,000; (3) defendant Sterling Truck Corporation has its principal

place of business in the state of Michigan; (4) defendant Freightliner LLC has its principal place of business in the state of Oregon.

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 Insurance Co. v. Estate of Cammon, 929 F. 2d 1220, 1223 (7th Cir. 1991). Although defendant Sterling Truck Company has asserted that its principal place of business is in Michigan, it does not say where it is incorporated. A search of publically-available records reveals that defendant Sterling Truck Corporation is incorporated in the state of Delaware; therefore, plaintiffs and defendant Sterling Truck Company are diverse. So far, so good.

Defendant Freightliner LLC asserts that its “principal place of business” is in the state of Oregon. However, a limited liability company’s principal place of business is not relevant to its citizenship. 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, 738 (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 Freightliner LLC;

therefore, it is impossible to know whether any partners are, like plaintiffs, citizens of Wisconsin.

This court has an independent obligation to insure that subject matter jurisdiction exists. Arbaugh v. Y & H Corp., 126 S. Ct. 1235, 1237 (2006). 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, 693 (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 Freightliner, LLC, should provide the names and citizenship of each of its partners.

ORDER

IT IS ORDERED that defendant Freightliner, LLC, will have until June 28, 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 14th day of June, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge