

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

JOSHUA J. SAYKALLY,

Plaintiff,

v.

JOHN R. BRANDT, JUSTIN T.
HARKINS, LUCUS J. FICK, NATE
L. ANDERSON, BRADY E. LAWRENCE,
TRICARE DEPT. OF THE ARMY, STATE
FARM FIRE & CASUALTY COMPANY
and GREAT NORTHWEST INSURANCE
COMPANY,

Defendants.

OPINION and ORDER

06-C-195-C

In this civil action for monetary relief, plaintiff Joshua Saykally contends that defendants John R. Brandt, Justin T. Harkins, Lucus J. Fick, Nate L. Anderson and Brady E. Lawrence assaulted him on August 7, 2004, causing him severe injury. Plaintiff has 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 October 2, 2006, defendant State Farm Fire & Casualty Company filed a motion for summary judgment which plaintiff has not opposed. In connection with that motion,

the following facts are undisputed: (1) plaintiff is a “resident” of Wisconsin; (2) defendants John R. Brandt, Justin T. Harkins, Lucas J. Fick, Nate L. Anderson and Brady E. Lawrence are “residents” of Minnesota; (3) defendants State Farm Fire & Casualty Company and Great Northwest Insurance Company are “foreign entities”; (4) defendant Tricare, Department of the Army is a “Kansas entity”; and (5) the amount in controversy exceeds \$75,000.

For the purpose of establishing diversity jurisdiction, the court examines the citizenship, not the residency, of individual persons. An individual is a citizen of the state in which he is domiciled, that is, has a “permanent home and principal establishment, and to which he has the intention of returning whenever he is absent therefrom.” Charles Alan Wright, Law of Federal Courts 161 (5th ed. 1994); see also Dakuras v. Edwards, 312 F.3d 256, 258 (7th Cir. 2002). A person has only one domicile, but may have several residences. Steigleder v. McQuesten, 198 U.S. 141 (1905) (distinguishing between residency and citizenship). In its motion for summary judgment, defendant State Farm Fire & Casualty Company has proposed only that defendants John R. Brandt, Justin T. Harkins, Lucas J. Fick, Nate L. Anderson and Brady E. Lawrence are “residents” of the state of Minnesota and that plaintiff is a “resident” of Wisconsin. However, in his complaint, plaintiff alleges that these defendants are in fact citizens of Minnesota, while he is a citizen of Wisconsin. Plaintiff’s allegations in this respect are sufficient to establish diversity between himself and

defendants Brandt, Harkins, Fick, Anderson and Lawrence. See, e.g., Gavin v. AT & T Corp., 464 F.3d 634, 640 (7th Cir. 2006) (complaint's allegations of diverse citizenship and amount in controversy would support removal to federal court).

That leaves defendants State Farm Fire & Casualty Company, Great Northwest Insurance Company and Tricare, Department of the Army. For a case to be within the diversity jurisdiction of the federal courts, diversity must be complete, meaning that no plaintiff may be a citizen of the same state as any defendant. McCready v. EBay, Inc., 453 F.3d 882, 891 (7th Cir. 2006); Strawbridge v. Curtiss, 7 U.S. 267 (1806). The citizenship of a business entity is determined by its organizational structure. A corporation is deemed a citizen of the state in which it is incorporated and the state in which its principal place of business is located, 28 U.S.C. § 1332(c)(1); Hoagland ex rel. Midwest Transit, Inc. v. Sandberg, Phoenix & von Gontard, P.C., 385 F.3d 737, 741 (7th Cir. 2004). Limited liability partnerships and limited liability companies (but not limited liability corporations) have the same citizenship as each of their partners. 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, neither the complaint nor the proposed findings of fact reveal the structure or citizenship of defendants State Farm Fire & Casualty Company, Great Northwest Insurance Company or Tricare, Department. The parties assert only that these organizations are “foreign entities.”

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 party seeking to try this case in federal court, plaintiff bears the burden of showing that federal jurisdiction exists. Chase v. Shop n' Save Warehouse Foods, Inc., 110 F.3d 424, 427 (7th Cir. 1997) (party seeking to invoke federal diversity jurisdiction bears burden of demonstrating that 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 plaintiff ten days in which to produce facts verifying the diversity of citizenship between himself and each of the named defendants.

ORDER

IT IS ORDERED that plaintiff Joshua Saykally may have until November 24, 2006, to provide this court with verification of the diversity of citizenship between himself and

each of the named defendants. Failure to comply with this deadline will result in the dismissal of the case for lack of subject matter jurisdiction.

Entered this 14th day of November, 2006.

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