

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

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SHANNON and LEE NICHOLS,

ORDER

Plaintiffs,

07-C-0021-C

v.

NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA,

Defendant.<sup>1</sup>  
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In this civil action for monetary relief, plaintiffs Shannon and Lee Nichols contend that defendant National Union Fire Insurance Company of Pittsburgh, Pa breached an insurance contract and acted in bad faith when it denied disability benefits to plaintiff Shannon Nichols following a motor vehicle accident that caused her severe injury.

Defendant removed this case from state court, invoking 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.

This case is before the court on cross motions for summary judgment. Regarding the

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<sup>1</sup>Parties have agreed to dismiss with prejudice defendant AIG American International Companies. I have amended the caption accordingly.

issue of diversity jurisdiction, the following facts are undisputed: (1) plaintiffs are married adults who “reside” in Poynette, Wisconsin; (2) defendant is an insurance company licensed to sell accident and disability insurance in Wisconsin, with its principal place of business in New York City and incorporated in the state of Pennsylvania (Defendant has not explicitly indicated its state of incorporation, but has indicated that it is a citizen of the states of Pennsylvania and New York, and its website states that defendant “was incorporated under the laws of Pennsylvania.”

<http://www.aignationalunion.com/nationalunion/public/nataboutus/0,2136,401,00.html> (last visited Aug. 29, 2007)); (3) 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, where he 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). 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).

In their cross motion for summary judgment, defendant has proposed that it is a citizen of the states of New York and Pennsylvania. But the parties have proposed only that plaintiffs are "residents" of the state of Wisconsin.

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).

In this case, neither the complaint nor the proposed findings of fact reveal the citizenship of the plaintiffs. 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 that removed this case to federal court, defendant 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 defendant seven days in which to produce facts verifying the diversity of citizenship between itself and both of the named plaintiffs.

#### ORDER

IT IS ORDERED that defendant National Union Fire Insurance Company of Pittsburgh, Pa may have until September 5, 2007, to provide this court with verification of the diversity of citizenship between itself and each of the named plaintiffs. Failure to comply with this deadline will result in the dismissal of the case for lack of subject matter jurisdiction.

Entered this 30th day of August, 2007.

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