

---

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

---

AQUATHERM, LLC; CORNERSTONE  
TECHNOLOGIES, LLC; STAG II  
LONDON, LLC; STAG INDUSTRIAL,  
INC.; and VIVINT, INC.,

Plaintiffs,

v.

CENTIMARK CORPORATION,

Defendant.

**ORDER TO SHOW CAUSE RE:  
SUBJECT-MATTER JURISDICTION**

Case No. 2:16-cv-01097-DN-PMW

District Judge David Nuffer

---

A federal court has a duty to consider sua sponte whether it has subject-matter jurisdiction whenever a doubt arises as to the existence of federal jurisdiction.<sup>1</sup> If a federal court concludes that it lacks subject-matter jurisdiction in a case removed from state court, it must remand the case back to state court.<sup>2</sup>

Defendant Centimark Corp. removed this case under [28 U.S.C. § 1441\(b\)](#) alleging diversity of citizenship under [28 U.S.C. § 1332\(a\)\(1\)](#).<sup>3</sup> “To invoke the power of the court pursuant to § 1332, allegations of diversity must be pleaded affirmatively.”<sup>4</sup> This requires a notice of removal to allege facts essential to show that “all parties on one side of the litigation are of a different citizenship from all parties on the other side of the litigation.”<sup>5</sup> In the case of

---

<sup>1</sup> *Mt. Healthy City Sch. Dist. Bd. of Educ. v. Doyle*, 429 U.S. 274, 278 (1977).

<sup>2</sup> 28 U.S.C. § 1447(c).

<sup>3</sup> Notice of Removal, [docket no. 2](#), filed October 26, 2016.

<sup>4</sup> *Martinez v. Martinez*, 62 Fed. App’x 309, 313 (10th Cir. 2003).

<sup>5</sup> *Depex Reina 9 P’ship v. Texas Int’l Petroleum Corp.*, 897 F.2d 461, 463 (10th Cir. 1990).

corporations, a corporation is a citizen of the state where it is incorporated *and* also of the state where it has its principal place of business.<sup>6</sup> In the case of limited liability companies, a company is a citizen of each state in which a member is a citizen.<sup>7</sup> And in the case of individuals, an individual is a citizen of the state in which she is domiciled, as evidenced by her physical location and intent to remain there indefinitely.<sup>8</sup>

Based on the plaintiffs' complaint,<sup>9</sup> Centimark's notice of removal alleges that Aquatherm LLC, Cornerstone Technologies LLC, and Vivint Inc. are citizens of Utah; Stag II London LLC<sup>10</sup> and Stag Industrial Inc. are citizens of Delaware; Travelers Property Casualty Co. and Hartford Fire Insurance Co. are citizens of Connecticut; American Economy Insurance Co. is a citizen of Indiana; Liberty Mutual Insurance Co. is a citizen of Massachusetts; and Centimark is a citizen of Pennsylvania.<sup>11</sup>

The complaint, in turn, simply alleges that Aquatherm and Cornerstone Technologies are each "a Utah limited liability company";<sup>12</sup> Vivint is "a Utah corporation";<sup>13</sup> Stag II London and Stag Industrial are "Delaware companies";<sup>14</sup> Travelers Property Casualty Co. and Hartford Fire Insurance Co. are "domiciled in Connecticut";<sup>15</sup> American Economy Insurance Co. "is domiciled

---

<sup>6</sup> *Id.*

<sup>7</sup> *Lompe v. Sunridge Partners, LLC*, 818 F.3d 1041, 1046-47 (10th Cir. 2016).

<sup>8</sup> *Martinez*, 62 Fed. App'x at 313.

<sup>9</sup> Complaint, docket no. 2-2, entered October 26, 2016.

<sup>10</sup> The complaint and notice of removal sometimes refer to Stag II London LLC as "Stag II Lindon LLC." *See, e.g., id.* ¶ 6; Notice of Removal, *supra* note 3, at 2.

<sup>11</sup> Notice of Removal, *supra* note 3, at 2.

<sup>12</sup> Complaint, *supra* note 9, ¶¶ 2, 4.

<sup>13</sup> *Id.* ¶ 8.

<sup>14</sup> *Id.* ¶ 6.

<sup>15</sup> *Id.* ¶¶ 5, 9.

in Indiana”;<sup>16</sup> Liberty Mutual Insurance Co. “is domiciled in Massachusetts”;<sup>17</sup> and Centimark is “a foreign general roofing contractor” with “headquarters in Pennsylvania.”<sup>18</sup>

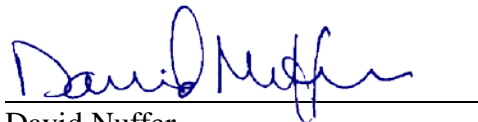
But neither the complaint nor the notice of removal contains allegations regarding:

- the citizenship of each member of Aquatherm, Cornerstone Technologies, and Stag II London;
- the principal place of business of Vivint and Stag Industrial;
- the nature of the four insurance companies as incorporated or unincorporated entities or, if they are incorporated, where each is incorporated and has its principal place of business; or
- where Centimark is incorporated.

THEREFORE, IT IS HEREBY ORDERED that by no later than *Friday, February 1, 2019*, Centimark shall—using the event “Notice (Other)”—file a notice containing allegations essential to show the citizenship of Aquatherm LLC, Cornerstone Technologies LLC, Vivint Inc., Stag II London LLC, Stag Industrial Inc., Travelers Property Casualty Co., Hartford Fire Insurance Co., American Economy Insurance Company, Liberty Mutual Insurance Co., and Centimark. If Centimark fails to do so, this action will be remanded to state court for lack of subject-matter jurisdiction.

Signed January 16, 2019.

BY THE COURT:



David Nuffer  
United States District Judge

---

<sup>16</sup> *Id.* ¶ 3.

<sup>17</sup> *Id.* ¶ 7.

<sup>18</sup> *Id.* ¶ 10.