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

ATAIN SPECIALTY INSURANCE
COMPANY,

Plaintiff,

v.

EAGLE MOUNTAIN CONSTRUCTION,
LLC; JEREMY J. CRAPO; JEFFERY W.
GEORGE; and DIANE GEORGE,

Defendants.

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

Case No. 4:19-cv-00007-DN

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.¹ If “a federal court concludes that it lacks subject-matter jurisdiction, the court must dismiss the complaint in its entirety.”²

In its complaint,³ Plaintiff Atain Specialty Insurance Company (“Atain”) alleges diversity of citizenship under [28 U.S.C. § 1332\(a\)\(1\)](#) as the basis for subject-matter jurisdiction.⁴ “To invoke the power of the court pursuant to § 1332, allegations of diversity must be pleaded affirmatively.”⁵ This requires a complaint 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

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

² *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 515 (2006).

³ Complaint for Declaratory Relief (“Complaint”), [docket no. 2](#), filed January 14, 2019.

⁴ *Id.* ¶ 6.

⁵ *Martinez v. Martinez*, 62 Fed. App’x 309, 313 (10th Cir. 2003).

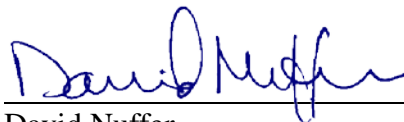
litigation.”⁶ In the case of limited liability companies, a company is a citizen of each state in which a member is a citizen.⁷ In the case of individuals, an individual is a citizen of the state in which she is domiciled, as evidenced by her physical location and intent to remain there indefinitely.⁸

Atain’s complaint alleges that Defendant Eagle Mountain Construction LLC (“EMC”) “is a Utah limited liability company conducting business in Delta, Millard County, State of Utah,”⁹ but the complaint does not make any allegation regarding the citizenship of each of EMC’s members. Similarly, the complaint alleges that Defendants Jeremy J. Crapo, Jeffery W. George, and Diane George are individuals residing at specific locations,¹⁰ but it does not contain allegations essential to show the domicile of each of these individuals.

THEREFORE, IT IS HEREBY ORDERED that by no later than *Tuesday, January 22, 2019*, Atain shall file an amended complaint containing allegations essential to show (1) the citizenship of each of EMC’s members and (2) the citizenship of each individual defendant based on domicile. If Atain fails to do so, this action will be dismissed in its entirety for lack of subject-matter jurisdiction.

Signed January 16, 2019.

BY THE COURT:



David Nuffer
United States District Judge

⁶ *Depex Reina 9 P’ship v. Texas Int’l Petroleum Corp.*, 897 F.2d 461, 463 (10th Cir. 1990).

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

⁸ *Martinez*, 62 Fed. App’x at 313.

⁹ Complaint, *supra* note 3, ¶ 2.

¹⁰ *Id.* ¶¶ 3-5.