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

SHERRIE DAVENPORT,
Plaintiff,

v.

URS MIDWEST, INC., d/b/a UNITED
ROAD SERVICES, INC.; and DENNIS
UPCRAFT,

Defendants.

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

Case No. 4:18-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 court concludes that it lacks subject-matter jurisdiction in a case removed from state court, it must remand the case to state court.²

Defendants URS Midwest Inc. and Dennis Upcraft removed this case under [28 U.S.C. § 1441\(b\)](#) alleging diversity of citizenship under [28 U.S.C. § 1332\(a\)\(1\)](#).³ “To invoke the power of the court pursuant to § 1332, allegations of diversity must be pleaded affirmatively.”⁴ 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.”⁵ In the

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

² 28 U.S.C. § 1447(c).

³ Defendants’ Notice of Removal, [docket no. 2](#), filed March 30, 2018.

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

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

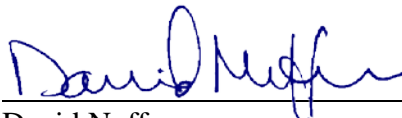
case of individuals, an individual is a citizen of the state in which she is domiciled, as evidenced by her physical location and intent to remain there indefinitely.⁶

Although the notice of removal alleges that Upcraft “is a resident of . . . California” and that Plaintiff Sherrie Davenport “is an individual residing in . . . Utah,”⁷ it does not contain allegations essential to show the citizenship of each of these individuals based on their respective domicile, as evidenced by their physical location and intent.

THEREFORE, IT IS HEREBY ORDERED that by no later than *Friday, February 1, 2019*, Defendants shall—using the event “Notice (Other)”—file a notice containing allegations essential to show the citizenship of Davenport and Upcraft based on their respective domicile. If Defendants fail to do so, this action will be remanded to state court for lack of subject-matter jurisdiction.

Signed January 17, 2019.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer
United States District Judge

⁶ *Martinez*, 62 Fed. App’x at 313.

⁷ Defendants’ Notice of Removal, *supra* note 3, at 3.