
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
SOUTHERN REGION

JACK FERM,

Plaintiff,

v.

CLYDE VELTMANN, an individual;
DAVID BRYANT II, and individual; GARY
ILMANEN, an individual; and AZIEL
CORPORATION, a Nevada Corporation,

Defendants.

**ORDER TO SHOW CAUSE WHY
THIS ACTION SHOULD NOT BE
DISMISSED FOR LACK OF SUBJECT
MATTER JURISDICTION**

Case No. 4:21-cv-00049-DAO

Magistrate Judge Daphne A. Oberg

The court “must, sua sponte, satisfy itself of its power to adjudicate in every case and at every stage of the proceedings.” *State Farm Mut. Auto. Ins. Co. v. Narvaez*, [149 F.3d 1269, 1271](#) (10th Cir. 1998) (internal quotation marks omitted). In his Complaint, Plaintiff Jack Ferm alleges this court has jurisdiction over this action based on diversity jurisdiction under [28 U.S.C. § 1332](#). (Compl. ¶ 1, [Doc. No. 3](#).) However, a review of the Complaint reveals Mr. Ferm has failed to adequately allege diversity of citizenship.

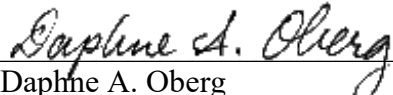
In his Complaint, Mr. Ferm alleges the residence, rather than the domicile, of the defendants. (*Id.* ¶¶ 6–9.) Under Tenth Circuit precedent, this is insufficient to establish diversity jurisdiction. For purposes of [28 U.S.C. § 1332](#), “[a]n individual’s residence is not equivalent to his domicile and it is domicile that is relevant for determining citizenship.” *Siloam Springs Hotel, L.L.C. v. Century Sur. Co.*, [781 F.3d 1233, 1238](#) (10th Cir. 2015). Indeed, “an allegation that a party defendant is a resident of a state is not equivalent to an allegation of citizenship and is insufficient to confer jurisdiction upon the District Court.” *Id.* at 1238 n.2 (internal quotation marks omitted). Likewise, a corporation’s citizenship, not its residence, is relevant to diversity

jurisdiction. *See* [28 U.S.C. § 1332\(c\)\(1\)](#) (providing that a corporation is a citizen of every state in which it is incorporated and where it has its principal place of business). Mr. Ferm also does not allege his own citizenship. Thus, Mr. Ferm's allegations are insufficient to establish diversity of citizenship between the parties.

Accordingly, the court ORDERS Mr. Ferm to show cause why this action should not be dismissed without prejudice for lack of subject matter jurisdiction. Mr. Ferm must respond by June 7, 2021. Mr. Ferm need not amend the Complaint, but he must file a document alleging the citizenship of each party. A failure to respond will result in a recommendation or order to dismiss this action.

DATED this 6th day of May, 2021.

BY THE COURT:



Daphne A. Oberg
United States Magistrate Judge