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

RICK NORTHRUP, and LESLIE
NORTHRUP,

Plaintiffs,

v.

AUTO-OWNERS INSURANCE, AUTO-
OWNERS INSURANCE COMPANY,
AUTO-OWNERS LIFE INSURANCE
COMPANY, HOME-OWNERS
INSURANCE COMPANY, OWNERS
INSURANCE COMPANY, PROPERTY
OWNERS INSURANCE COMPANY, and
SOUTHERN-OWNERS INSURANCE
COMPANY,

Defendants.

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

Case No. 2:17-cv-00908-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 in a case removed from state court, it must remand the case back to state court.²

Defendant Auto-Owners Insurance Co. 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

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 Notice of Removal, [docket no. 2](#), filed August 9, 2017; Notice of Errata, [docket no. 3](#), filed August 9, 2017.

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

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 case of 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.⁶ In the case of limited liability companies, a company is a citizen of each state in which a member is a citizen.⁷ 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.⁸

Auto-Owners Insurance Co.’s notice of removal alleges that Plaintiffs Rick Northrup and Leslie Northrup “are residents of . . . Utah.”⁹ It also alleges that Auto-Owners Insurance Company is a “Michigan corporation with its principal place of business in . . . Michigan.”¹⁰ But it makes no allegation regarding the Northrups’ citizenship, based on their respective domicile, as evidenced by their physical location and intent. It also makes no allegation regarding the citizenship of Defendants Auto-Owners Insurance, Auto-Owners Life Insurance Company, Home-Owners Insurance Company, Owners Insurance Company, Property Owners Insurance Company, or Southern-Owners Insurance Company (collectively, the “Other Defendants”) or regarding the nature of each of the Other Defendants as incorporated or unincorporated entities.

THEREFORE, IT IS HEREBY ORDERED that by no later than *Friday, February 1, 2019*, Auto-Owners Insurance Co. shall—using the event “Notice (Other)”—file a notice

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

⁶ *Id.*

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

⁸ *Martinez*, 62 Fed. App’x at 313.

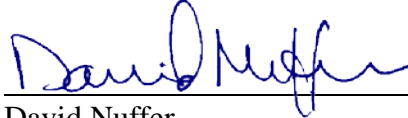
⁹ Petition for Removal ¶ 2, docket no. 3-1, filed August 9, 2017.

¹⁰ *Id.* ¶ 3.

containing allegations essential to show (1) the citizenship of Rick Northrup, (2) the citizenship of Leslie Northrup, and (3) the citizenship of each of the Other Defendants. If Auto-Owners Insurance Co. fails to do so, this action will be remanded to state court for lack of subject-matter jurisdiction.

Signed January 17, 2019.

BY THE COURT:



David Nuffer
United States District Judge