
THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

BRETT SAUNDERS,

Plaintiffs,

v.

FARM BUREAU PROPERTY &
CASUALTY INSURANCE COMPANY,

Defendant.

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

Case No. 4:24-cv-00064-DN

District Judge David Nuffer

A federal court has a duty to consider *sua sponte* whether it has subject matter jurisdiction whenever a question arises as to the existence of federal jurisdiction.¹ If the court determines that it lacks subject matter jurisdiction, it must dismiss the case.²

Plaintiff alleges diversity under [28 U.S.C. § 1332](#) as the basis for federal subject matter jurisdiction in this case.³ “To invoke the power of the court pursuant to § 1332, allegations of diversity must be pleaded affirmatively.”⁴ This requires a plaintiff’s complaint to include allegations showing 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

When a party is a corporation, it is “deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal

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

² FED. R. CIV. P. 12(h)(3).

³ Original Complaint (“Complaint”) ¶ 5 at 2, [docket no. 1](#), filed July 22, 2024.

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).

place of business.”⁶ Plaintiffs’ Complaint alleges that Defendant is a “is a corporation, with its principal office and place of business in the City of Des Moines of Polk County, Iowa.”⁷ The Complaint does not, however, include an allegation regarding the state in which Defendant is incorporated.

Additionally, the Complaint’s only allegation regarding Plaintiff’s citizenship is that “Plaintiff is a private individual with his primary residence located in San Juan County, Utah.”⁸ But, “[a]n individual’s residence is not equivalent to his domicile and it is domicile that is relevant for determining citizenship.”⁹

Therefore, it appears that Plaintiffs’ Complaint fails to sufficiently allege diversity jurisdiction under [28 U.S.C. § 1332](#).

ORDER

IT IS HEREBY ORDERED that by no later than Friday, August 2, 2024, Plaintiff must file an amended complaint which contains sufficient allegations regarding Plaintiff and Defendant’s citizenship for diversity jurisdiction under [28 U.S.C. § 1332](#).

If Plaintiff is unable to obtain the necessary information to allege diversity jurisdiction under [28 U.S.C. § 1332](#) and timely file an amended complaint, or believes that the original Complaint contains sufficient allegations of diversity, Plaintiff must file by no later than Friday, August 9, 2024, a response to this Order stating the reasons the information could not be obtained and requesting additional time, or stating the basis for this court’s exercise of subject matter jurisdiction in this case.

⁶ [28 U.S.C. § 1332\(c\)\(1\)](#).

⁷ Complaint ¶ 4 at 2.

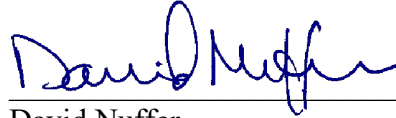
⁸ *Id.* ¶ 3 at 2.

⁹ *Silom Springs Hotel, LLC v. Century Sur. Co.*, 781 F.3d 1233, 1238 (10th Cir. 2015).

If Plaintiff fails to timely file an amended complaint or a response to this Order, Plaintiffs' Complaint and this action will be dismissed without prejudice, without further notice.

Signed July 25, 2024.

BY THE COURT

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

David Nuffer
United States District Judge