



E.J.E. Construction

2009 | Cited 0 times | C.D. California | June 11, 2009

CIVIL MINUTES - GENERAL

Lisa Bredahl Not Present

Proceedings: [IN CHAMBERS] ORDER REQUIRING DEFENDANT TO SHOW CAUSE WHY THIS CASE SHOULD NOT BE DISMISSED FOR LACK OF SUBJECT MATTER JURISDICTION

Plaintiffs E.J.E. Construction, Inc. and Elio Moreno ("Plaintiffs") sued Defendant Lincoln General Insurance Company ("Defendant") in state court. Defendant timely removed to this Court, alleging that this Court has diversity jurisdiction.

In its Notice of Removal, Defendant fails adequately to state the citizenship of Plaintiff E.J.E. Construction, Inc. Defendant states that "Plaintiffs are individuals who reside in California." ("Defendant Lincoln General Insurance Company's Notice of Removal under 28 U.S.C. Section 1441(b)" ¶ 3.) But Plaintiff E.J.E. Construction, Inc. is not an individual. It is a corporation. Because Plaintiff E.J.E. Construction, Inc. is a corporation, Defendant is required to state both the state of incorporation and its principal place of business. See 28 U.S.C. § 1332(c). A corporation incorporated in one state with its principal place of business in another state is a citizen of both states, and it can sue or be sued in diversity actions only if no opposing party is a citizen of either state. *Bank of Calif. Nat'l Ass'n v. Twin Harbors Lumber Co.*, 465 F.2d 489, 491-92 (9th Cir. 1972). This acts as an important limitation on federal diversity, decreasing the chances of diversity jurisdiction. William W. Schwarzer, A. Wallace Tashima, and James M. Wagstaffe, *FEDERAL CIVIL PROCEDURE BEFORE TRIAL* 2:293 (Rutter Group 2007).

Because Defendant fails to state Plaintiff E.J.E. Construction, Inc.'s state of incorporation and principal place of business, it is impossible for the Court to tell whether diversity exists. Defendant has not properly alleged diversity jurisdiction.

The Court will dismiss this case for lack of subject matter jurisdiction unless within 10 days of this Order, Defendant files a brief showing why this case should not be dismissed for lack of subject matter jurisdiction.

