

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 14-3397

CBS CORPORATION,
Appellant

v.

SCHINDLER ELEVATOR CORPORATION

United States District Court for the
Western District of Pennsylvania
(2-12-cv-01027)
District Judge: Honorable David S. Cercone

Present: FISHER, HARDIMAN, ROTH, *Circuit Judges.*

ORDER

The parties agree that the District Court did not have subject matter jurisdiction over this state-law breach of contract action because diversity of citizenship never existed. Therefore, the District Court lacked the constitutional authority to “proceed at all in [this] cause.” *Ex parte McCardle*, 74 U.S. (7 Wall.) 506, 514 (1868). On consideration whereof, it is now hereby

ORDERED and ADJUDGED by this Court that the judgment of the District Court entered June 26, 2014, be and the same is hereby VACATED and this case is REMANDED with instructions that the case be dismissed without prejudice.

BY THE COURT

s/ D. Michael Fisher
Circuit Judge

Dated: April 8, 2015
ARL/cc: FWB; SD; BWF; SWZ; RAC; DCS