

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

HARTFORD FIRE INSURANCE CO.,	:	CIVIL ACTION NO. 10-4698 (MLC)
a/s/o SYNCHRONOSS	:	
TECHNOLOGIES, INC., and	:	O P I N I O N
SYNCHRONOSS TECHNOLOGIES,	:	
INC.,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
BLAHER'S OFFICE FURNITURE	:	
OUTLET,	:	
	:	
Defendant.	:	

THE COURT examining jurisdiction sua sponte in this action brought pursuant 28 U.S.C. § ("Section") 1332 to recover damages for property damage (dkt. entry no. 1, Compl.), see Fed.R.Civ.P. 12(h) (3) (stating court to dismiss complaint if jurisdiction is lacking); and it appearing that jurisdiction is measured "against the state of facts that existed at the time of filing", Grupo Dataflux v. Atlas Global Group, 541 U.S. 567, 571 (2004); and the plaintiffs alleging that the plaintiff Hartford Fire Insurance Co. is deemed to be a citizen of Connecticut only (see Compl. at 1); and the plaintiffs further alleging that the plaintiff Synchronoss Technologies, Inc. ("STI") "is a corporation organized . . . under the laws of . . . Delaware, with its principal place of business located [in New Jersey]" (id.); and

thus STI being deemed to be a citizen of both Delaware and New Jersey, see 28 U.S.C. § 1332(c)(1); and

THE PLAINTIFFS further alleging that the “[d]efendant, Blaher’s Office Furniture Outlet . . . is a corporation organized . . . under the laws of . . . New Jersey, with its principal place of business located [in New Jersey]” (Compl. at 1); and thus it appearing that in view of the plaintiffs’ allegations, the defendant is deemed to be a citizen of New Jersey, see 28 U.S.C. § 1332(c)(1); and

IT BEING OBVIOUS from the face of the Complaint that the Court lacks subject matter jurisdiction here, as STI is not a “citizen[] of [a] different State[]” in relation to the defendant, 28 U.S.C. § 1332(a)(1); and it appearing that complete diversity of citizenship under Section 1332 is a well-settled requirement, see Lincoln Prop. Co. v. Roche, 546 U.S. 81, 89 (2005) (reading “the statutory formulation ‘between . . . citizens of different States’ to require complete diversity between all plaintiffs and all defendants” (emphasis added)); Brown v. Francis, 75 F.3d 860, 865 (3d Cir. 1996) (stating same); and it further appearing that “subject matter jurisdiction is never waived”, Liberty Mut. Fire Ins. Co. v. Yoder, 112 Fed.Appx. 826, 828 (3d Cir. 2004); and

THE COURT thus intending to dismiss the Complaint without prejudice to the plaintiffs to recommence the action in state

court within thirty days, as the limitations period for the cause of action is tolled by the filing of the federal complaint, see Jaworowski v. Ciasulli, 490 F.3d 331, 333-36 (3d Cir. 2007); Galligan v. Westfield Ctr. Serv., 82 N.J. 188, 191-95 (1980); and for good cause appearing, the Court will issue an appropriate order and judgment.

s/ Mary L. Cooper

MARY L. COOPER
United States District Judge

Dated: December 2, 2010