

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

NORTH AMERICAN CAPACITY )  
INSURANCE COMPANY, )

2:11-cv-00521-GEB-EFB

Plaintiff, )

v. )

ORDER DISMISSING COMPLAINT  
WITH LEAVE TO AMEND FOR  
FAILURE TO ALLEGE SUBJECT  
MATTER JURISDICTION; AND  
DENYING PENDING DISMISSAL  
MOTIONS BROUGHT UNDER FED. R.  
CIV. P. 12 (b) (6) BECAUSE THEY  
ARE MOOT

SPIESS CONSTRUCTION CO., INC.; )  
TRAVELERS CASUALTY AND SURETY )  
COMPANY OF AMERICA; GOOD VALUE )  
CONSTRUCTION, INC.; STARWOOD )  
CAPITAL GROUP GLOBAL I, LLC; )  
MAMMOTH MOUNTAIN SKI AREA, LLC; )  
LEXINGTON INSURANCE COMPANY; )  
TOWN OF MAMMOTH LAKES; )  
TRIAD/HOLMES ASSOCIATES; PSOMAS; )  
SIERRA GEOTECHNICAL SERCVICES, )  
INC.; and DOES 1 through 100, )  
inclusive, )

Defendants. )

Defendant Town of Mammoth Lakes ("Mammoth") moves under Federal Rule of Civil Procedure ("Rule") 12(b)(1) for dismissal of Plaintiff's Complaint, arguing that the corporate Plaintiff has not alleged sufficient facts to establish that diversity of citizenship subject matter jurisdiction exists. Specifically, Mammoth argues Plaintiff "has not pled any facts regarding where its corporate place of business is located." (Mammoth's Mot. to Dismiss or, in the Alternative, to Stay the Action 5:25-26.)

"For purposes of . . . diversity jurisdiction, a corporation is . . . a citizen both of the state (or states) in which it is incorporated and the state in which it has its principal place of

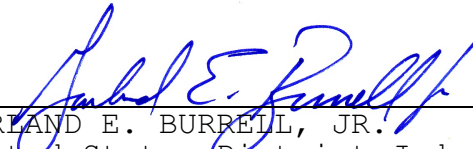
1 business." Casio, Inc. v. S.M. & R. Co., Inc., 755 F.2d 528, 529 (7th  
2 Cir. 1985) (citing 28 U.S.C. § 1332(c)). "Hence . . ., the plaintiff  
3 must allege both the state of incorporation and the state of the  
4 principal place of business for each corporation" named in a complaint.  
5 Id. at 529-30.

6 Here, Plaintiff has not alleged the state of its principal  
7 place of business. Plaintiff also has not alleged the state(s) in which  
8 several corporations named as Defendants have their principal places of  
9 business. Nor has Plaintiff alleged the citizenship of the owners and/or  
10 members of two limited liability companies ("LLC") named as Defendants.  
11 See Johnson v. Columbia Props. Anchorage, LP, 437 F.3d 894, 899 (9th  
12 Cir. 2006) (stating "an LLC is a citizen of every state of which its  
13 owners/members are citizens").

14 Therefore, Plaintiff's Complaint is dismissed for failure to  
15 allege subject matter jurisdiction. Since Plaintiff's Complaint is  
16 dismissed, the pending dismissal motions filed on March 17, 2011, and  
17 April 20, 2011, are denied as moot.

18 Plaintiff is granted fourteen (14) days from the date on which  
19 this Order is filed to file an amended complaint addressing the  
20 deficiencies in its Complaint.

21 Dated: July 21, 2011

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GARLAND E. BURRELL, JR.  
United States District Judge