

United States District Court
For the Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

DENISE B. JOAQUIN, individually and on
behalf of all others similarly situated,

No. C-07-3259 MMC

Plaintiff,

**ORDER DISMISSING ACTION WITH
LEAVE TO AMEND**

v.

GEICO GENERAL INSURANCE
COMPANY, an Iowa corporation,

Defendant.

_____ /

The instant action is a purported class action filed by plaintiff Denise B. Joaquin (“Joaquin”) against GEICO General Insurance Company (“GEICO”) on behalf of a class of California residents who “purchased a policy of automobile insurance from GEICO, made a claim to GEICO for insurance coverage for auto repairs, and had their claim denied in part by GEICO on the ground that the hourly labor rate charged by the auto body shop exceeded the labor rate that GEICO was required to pay, and then paid or became indebted to pay to the auto body repair shop the difference due to hourly rates.” (See Compl. ¶ 1.)

Joaquin alleges the Court has jurisdiction over the instant action based on diversity, pursuant to 28 U.S.C. § 1332. (See Compl. ¶ 3.) Joaquin's allegations in support thereof are insufficient, however, for the following reasons.

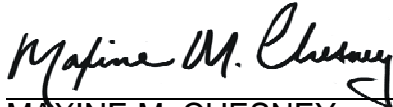
1 First, Joaquin fails to adequately allege the citizenship of GEICO. A corporation is “a
2 citizen of any State by which it has been incorporated and of the State where it has its
3 principal place of business.” See 28 U.S.C. § 1332(c)(1) (emphasis added). Although
4 Joaquin alleges GEICO’s state of incorporation, (see Compl. ¶ 3), she fails to allege the
5 state where GEICO has its principal place of business.

6 Second, Joaquin fails to adequately allege the amount in controversy. Although
7 Joaquin alleges the amount in controversy exceeds \$75,000, (see Compl. ¶ 3), she fails to
8 allege her own claim exceeds that amount. See Exxon Mobile Corp. v. Allapattach
9 Services, Inc., 545 U.S. 546, 549 (2005) (holding federal court has diversity jurisdiction
10 over class action where “at least one named plaintiff in the action satisfies the amount-in-
11 controversy requirement”). The Court further notes there is no allegation that the Court has
12 jurisdiction pursuant to the Class Action Fairness Act. See 28 U.S.C. § 1332(d).

13 Accordingly, the instant action is hereby DISMISSED for lack of subject-matter
14 jurisdiction, with leave to amend. Joaquin shall file any amended complaint no later than
15 July 9, 2007. If Joaquin fails to do so, the action will be dismissed without prejudice to
16 Joaquin’s refiling the action in state court.

17 **IT IS SO ORDERED.**

18 Dated: June 25, 2007



MAXINE M. CHESNEY
United States District Judge

19
20
21
22
23
24
25
26
27
28