

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ADVANCE INDUSTRIAL COATING,
LLC, a Florida limited liability company

Plaintiff,

v.

Case No: 2:15-cv-141-FtM-38DNF

WESTFIELD INSURANCE
COMPANY,

Defendant.

_____ /

ORDER¹

This matter comes before the Court on review of the Complaint on Public Construction Bond ([Doc. #1](#)) filed on March 4, 2015. Plaintiff Advance Industrial Coating, LLC brings this case against Defendant Westfield Insurance Company based on diversity jurisdiction. ([Doc. #1, at ¶14](#)). Claims properly brought in federal court pursuant to diversity jurisdiction contain matters where the parties are completely diverse with regard to citizenship and where the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs. 28 U.S.C. § 1332(a); [Morrison v. Allstate Indem. Co.](#), 228 F.3d 1255, 1261 (11th Cir. 2000). In an action filed directly in federal court, plaintiff bears the burden of adequately pleading, and ultimately proving, jurisdiction. [King v. Cessna Aircraft Co.](#), 505 F.3d 1160, 1171 (11th Cir. 2007).

¹ Disclaimer: Documents filed in CM/ECF may contain hyperlinks to other documents or Web sites. These hyperlinks are provided only for users' convenience. Users are cautioned that hyperlinked documents in CM/ECF are subject to PACER fees. By allowing hyperlinks to other Web sites, this Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their Web sites. Likewise, the Court has no agreements with any of these third parties or their Web sites. The Court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the Court.

Here, Advance Industrial Coating failed to properly indicate its individual citizenship. Instead, Advance Industrial Coating merely states it “is a Florida limited liability company with its principal place of business in Jacksonville, Florida.” ([Doc. #1, at ¶2](#)). A limited liability company is a citizen of every state in which one of its members is located. [Moreno v. Breitburn Florida, LLC](#), No. 2:09-cv-566-FtM-29DNF, 2011 WL 2293124, at *1 (M.D. Fla. June 9, 2011) (citing [Rolling Greens MHP, L.P. v. Comcast SCH Holdings, LLC](#), 374 F.3d 1020 (11th Cir. 2004)). Here, it appears Advance Industrial Coating has relied on the citizenship requirements for a corporation instead. After all, the members of the LLC and their respective locations are not disclosed in the complaint.

In addition, allegations regarding Defendant Westfield Insurance’s citizenship are ambiguous. That is, Advance Industrial Coating alleges Westfield Insurance “is an Ohio corporation and foreign insurance company authorized to issue surety bonds in the State of Florida.” ([Doc. #1, at ¶3](#)). A corporation is a citizen of both the state of its incorporation and the state where it has its principal place of business. 28 U.S.C. § 1332(c)(1). The principal place of business is determined by the “nerve center” test. [Hertz Corp. v. Friend](#), 559 U.S. 77 (2010). If Westfield Insurance is an Ohio corporation, then its principle place of business must also be disclosed. If, however, Westfield Insurance is a foreign corporation then Advance Industrial Coating should clearly plead such. See generally [Arango v. Guzman Travel Advisors](#), 761 F.2d 1527, 1533 (11th Cir. 1985).


The Court is currently not satisfied that it has federal jurisdiction to facilitate this case. The Court will dismiss the complaint without prejudice but allow Advance Industrial Coating to file an amended complaint that properly alleges the Court’s jurisdiction.

Accordingly, it is now

ORDERED:

The Complaint on Public Construction Bond ([Doc. #1](#)) is **DISMISSED without prejudice**. Plaintiff Advance Industrial Coating, LLC may file an amended complaint that properly alleges federal jurisdiction no later than **March 27, 2015**. Failure to timely file an amended complaint will result in this matter being closed.

DONE and **ORDERED** in Fort Myers, Florida this 6th day of March, 2015.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record