

E-FILED
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Clerk, U.S. District Court, ILCD

IN THE
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION

BARN II, INC., d/b/a CONKLIN
BARN II DINNER THEATRE,
Plaintiff,

v.

WEST BEND MUTUAL
INSURANCE COMPANY,
Defendant.

Case No. 1:17-cv-01184-MMM-JEH

Order

The Plaintiff, Barn II, Inc., filed a Complaint, initiating this case in the Circuit Court of Woodford County, Illinois. (D. 1-1)¹ The Defendant, West Bend Mutual Insurance Company, filed a Notice of Removal to this Court on April 28, 2017. (D. 1). The Defendant's Notice asserts diversity of citizenship as a basis of this Court's subject matter jurisdiction. *Id.* at pg. 4-5. The allegations of the Notice are not sufficient to support that assertion.

The court may *sua sponte* raise the issue of federal subject matter jurisdiction. *Tylka v. Gerber Products Co.*, 211 F.3d 445, 447 (7th Cir. 2000) (citations omitted). Here, the Defendant alleges it "is a Wisconsin domiciled insurance company with its principal place of business located... [in] Wisconsin." *Id.* at pg. 5.

A complaint based on diversity jurisdiction must allege the state of incorporation *and* principal place of business for each of the named corporations,

¹ Citations to the Docket in this case are abbreviated as "D. ___."

and those allegations must be based on the state of things at the time the action was brought. 28 USC § 1332(c)(1); *Grupo Dataflux v Atlas Global Group, LP*, 541 US 567, 570-71 (2004).

The Court may grant leave to amend defective allegations of subject matter jurisdiction pursuant to 28 U.S.C. § 1653. *See also, Leaf v. Supreme Court of State of Wis.*, 979 F.2d 589, 595 (7th Cir. 1992) (“leave to amend defective allegations of subject matter jurisdiction should be freely given”) (citations omitted). Accordingly, it is hereby ORDERED that the Defendant file an Amended Notice of Removal not later than fourteen (14) days from the date of entry of this Order. In the Amended Notice of Removal, the Defendant shall properly allege the basis for the Court’s jurisdiction.

It is so ordered.

Entered on May 2, 2017.

s/Jonathan E. Hawley
U.S. MAGISTRATE JUDGE