

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DYNOMAX, INC.,)	
)	
Plaintiff,)	
)	
v.)	No. 08 C 6629
)	
ANN ARBOR MACHINE COMPANY, LLC,)	
)	
Defendant.)	

MEMORANDUM ORDER

Dynomax, Inc. ("Dynomax") has brought this breach of contract action against Ann Arbor Machine Company, LLC ("Ann Arbor"), invoking federal jurisdiction on diversity of citizenship grounds. Ann Arbor's counsel has just tendered, for presentment on January 27, its motion to extend the time for its responsive pleading to February 18, 2009--a motion to which Dynomax's counsel has voiced no objection.

This Court grants the requested extension, obviating the need for either counsel to appear on the noticed-up presentment date. And relatedly, the time frame for the extension requires no modification of the currently-scheduled February 20 status hearing.

There is however, one additional matter that should be addressed here, given this Court's obligation to "police subject matter jurisdiction sua sponte" (Wernsing v. Thompson, 423 F.3d 732, 743 (7th Cir. 2005)). Because Ann Arbor is a limited liability company, Dynomax's counsel has properly recognized that

the relevant citizenship for diversity purposes is that of its members rather than of the company itself (see, e.g., such cases as Thomas v. Guardsmark, LLC, 487 F.3d 531, 533 (7th Cir. 2007)). Hence Complaint ¶3 states "on information and belief" that Ann Arbor's members "are citizens of States other than Illinois," an allegation essential to establish diversity vis-a-vis Dynamax (both facets of whose corporate citizenship are Illinois-sited).

Accordingly this Court orders Ann Arbor's counsel to file a statement on its behalf immediately if that information and belief are wrong and federal jurisdiction is therefore absent. On the other hand, if diversity is in fact present, Ann Arbor's response to Complaint ¶3 shall include a statement identifying the citizenship of each of its members.



Milton I. Shadur
Senior United States District Judge

Date: January 26, 2009