

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

ANTHONY W. LUCAS,)	
)	
Plaintiff,)	
)	
v.)	CAUSE NO. 1:06-CV-00189
)	
TIG INSURANCE CO., et al.,)	
)	
Defendants.)	

OPINION AND ORDER

Before the Court is a Notice of Removal (Docket # 2) filed by Defendant Specialty Benefits, Inc. (“Specialty Benefits”), removing this case from the Allen County, Indiana, Circuit Court to this Court.

However, under the “forum defendant” rule (also referred to as the “no-local-defendant” limitation in some jurisdictions) of 28 U.S.C. § 1441(b), a case is removable on the grounds of diversity jurisdiction “only if none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.” 28 U.S.C. § 1441(b); *see Hurley v. Motor Coach Indus., Inc.*, 222 F.3d 377, 378-80 (7th Cir. 2000); *Lashcon, Inc. v. Butler*, 340 F. Supp. 2d 932, 935 (C.D. Ill. 2004); *WRS Motion Picture & Video Lab. v. Post Modern Edit, Inc.*, 33 F. Supp. 2d 876, 877-78 (C.D. Cal. 1999); *see generally Spencer v. United States Dist. Court for the N. Dist. of California*, 393 F.3d 867, 870 (9th Cir. 2004); *Korea Exch. Bank, New York Branch v. Trackwise Sales Corp.*, 66 F.3d 46, 50 (3rd Cir. 1995); *Lamotte v. Roundy’s, Inc.*, 27 F.3d 314, 315-16 (7th Cir. 1994). As this case was removed by Specialty Benefits on the grounds of diversity, but Specialty Benefits and Defendant K&K Insurance

Company are each Indiana corporations with principal places of business located in Fort Wayne, Indiana, (*see* Notice of Removal ¶¶ 5, 8), the removal was seemingly in violation of Section 1441(b)'s "forum defendant" rule. *See* 28 U.S.C. § 1441(b); *Hurley*, 222 F.3d at 378-80; *Lashcon*, 340 F. Supp. 2d at 935; *WRS Motion Picture*, 33 F. Supp. 2d at 877-78.

Accordingly, if Lucas seeks to remand the case due to an alleged violation of the "forum defendant" rule, or if he seeks a remand on any other basis, he is to file a motion to remand with this Court on or before May 30, 2006.

SO ORDERED.

Enter for this 12th day of May, 2006.

/S/ Roger B. Cosby
Roger B. Cosby,
United States Magistrate Judge