

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

NORTH AMERICAN VAN LINES, INC.,)	
)	
Plaintiff,)	
)	
v.)	CAUSE NO. 1:11-CV-397
)	
MATTHEW S. WENZEL, LORIE A.)	
WENZEL, MARC A. ESPINOSA, and)	
MIRANDA T. MUNG,)	
)	
Defendants.)	

OPINION AND ORDER

This case was filed in this Court on November 17, 2011, based on diversity jurisdiction pursuant to 28 U.S.C. § 1332(a). (Docket # 1.) The Complaint alleges that “[u]pon information and belief, Defendants, Matthew S. Wenzel, Lorie A. Wenzel, Marc A. Espinosa and Miranda T. Mung, are all individuals having a principal place of residence located in Tucson, Arizona.” (Complaint ¶ 2.)

The Complaint, however, is inadequate for two reasons. First, it is well-settled that “[a]llegations of federal subject matter jurisdiction may not be made on the basis of information and belief, only personal knowledge.” *Yount v. Shashek*, 472 F. Supp. 2d 1055, 1057 n.1 (S.D. Ill. 2006) (citing *Am.’s Best Inns, Inc. v. Best Inns of Abilene, L.P.*, 980 F.2d 1072, 1074 (7th Cir. 1992)); *Ferolie Corp. v. Advantage Sales & Mktg., LLC*, No. 04 C 5425, 2004 WL 2433114, at *1 (N.D. Ill. Oct. 28, 2004); *Hayes v. Bass Pro Outdoor World, LLC*, No. 02 C 9106, 2003 WL 187411, at *2 (N.D. Ill. Jan. 21, 2003); *Multi-M Int’l, Inc. v. Paige Med. Supply Co.*, 142 F.R.D. 150, 152 (N.D. Ill. 1992). Consequently, Plaintiff must amend its Complaint to allege the

Defendants' citizenship on personal knowledge rather than on information and belief.

Moreover, the Complaint is also insufficient because the "residency" of each party is meaningless for purposes of diversity jurisdiction, as "citizenship is what matters."¹ *Guar. Nat'l Title Co. v. J.E.G. Assocs.*, 101 F.3d 57, 58-59 (7th Cir. 1996) (explaining that statements concerning a party's "residency" are not proper allegations of citizenship as required by 28 U.S.C. § 1332); *see* 28 U.S.C. § 1332. "It is well-settled that when the parties allege residence but not citizenship, the court must dismiss the suit." *Held v. Held*, 137 F.3d 998, 1000 (7th Cir. 1998) (internal quotation marks and citation omitted); *see generally Smoot v. Mazda Motors of Am., Inc.*, 469 F.3d 675, 677-78 (7th Cir. 2006). Therefore, as citizenship does not necessarily equate with residence, *Dahlstrom v. Simon*, No. 00 C 5189, 2000 WL 1231391, at *1 (N.D. Ill. Aug. 28, 2000), alleging that the Defendants have a principal place of residence in Arizona fails to establish their citizenship.

Accordingly, the Court must be advised of each party's citizenship, not residency. As to the Defendants, "[f]or natural persons, state citizenship is determined by one's domicile." *Dausch v. Rykse*, 9 F.3d 1244, 1245 (7th Cir. 1993); *see also Am.'s Best Inns, Inc. v. Best Inns of Abilene, L.P.*, 980 F.2d 1072, 1074 (7th Cir. 1992) ("In federal law citizenship means domicile, not residence.").

Therefore, Plaintiff is ORDERED to file an Amended Complaint on or before December 6, 2011, properly alleging on personal knowledge the citizenship of Defendants Matthew Wenzel, Lorie Wenzel, Marc Espinosa, and Miranda Mung.

¹ For purposes of determining diversity jurisdiction, each party's citizenship must be articulated as of "the time of the filing of the complaint," rather than the date the claims are alleged to have arisen or some other time material to the lawsuit. *Multi-M Int'l, Inc. v. Paige Med. Supply Co.*, 142 F.R.D. 150, 152 (N.D. Ill. 1992).

SO ORDERED.

Entered this 22nd day of November, 2011.

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