

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

JULIA DEDELVA, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Cause No. 1:19-cv-00275-WCL-SLC
)	
IKBOL BOBOHONOV, et al.,)	
)	
Defendants.)	

OPINION AND ORDER

Defendants Ikbol Bobohonov and B&M Express, Inc., removed this case to this Court from the Steuben County Circuit Court, State of Indiana, based on diversity jurisdiction. (DE 1). The Notice of Removal, however, elicits concerns regarding the Court’s subject matter jurisdiction. As always, subject matter jurisdiction is the first issue that must be addressed, *Baker v. IBP, Inc.*, 357 F.3d 685, 687 (7th Cir. 2004); thus, the Court now raises the issue *sua sponte*, pursuant to Federal Rule of Civil Procedure 12(h)(3).

As the party seeking to invoke federal diversity jurisdiction, Defendants bear the burden of demonstrating that the requirement of complete diversity has been met.¹ *Chase v. Shop’n Save Warehouse Foods, Inc.*, 110 F.3d 424, 427 (7th Cir. 1997). A corporation is considered a citizen of the state by which it is incorporated and the state where it has its principal place of business. 28 U.S.C. § 1332(c)(1); *N. Trust Co. v. Bunge Corp.*, 899 F.2d 591, 594 (7th Cir.

¹ Defendants do not represent whether the Notice of Removal was timely filed. A petition for removal must be filed within 30 days of the defendants receiving “a copy of an amended pleading, motion, order or other paper form which it may first be ascertained that the case is one which is or has become removable.” 28 U.S.C. § 1446(b)(3). Here, Defendants learned that this case was removable on May 23, 2019 (when Plaintiff Julia Dedelva responded to Defendants’ requests for admissions) (DE 1-1) and filed the Notice of Removal on June 21, 2019 (less than 30 days later) (DE 1). Thus, Defendants timely petitioned to remove this case.

1990). Here, the Notice of Removal fails to identify in which state Defendant Interstate Cargo, Inc., has its principal place of business and its state of incorporation. (*See* DE 1).

Accordingly, the Court must be informed of the state in which Interstate Cargo, Inc. (“Interstate”), is incorporated and has its principal place of business to ensure that it does not share a citizenship with either Plaintiff.

Furthermore, Interstate did not sign the Notice of Removal, and there is no indication that Interstate consented to the petition. “As a general rule, all defendants must join in a removal petition in order to effect removal.” *N. Illinois Gas Co. v. Airco Indus. Gases, A Div. Of Airco, Inc.*, 676 F.2d 270, 272 (7th Cir. 1982). “Unanimity among the defendants must be expressed to the Court ‘within thirty days after the receipt by the defendant . . . of the copy of the initial pleading’ containing the removable claim.” *Prod. Stamping Corp. v. Maryland Cas. Co.*, 829 F. Supp. 1074, 1076 (E.D. Wis. 1993) (alteration in original) (quoting 28 U.S.C. § 1446(b)). “However, the requirement that all defendants join in the motion may not be necessary if, for example, the non-joining party had not yet been served. But all served defendants still have to support the petition in writing, i.e., sign it.” *Gossmeyer v. McDonald*, 128 F.3d 481, 489 (7th Cir. 1997).

Interstate has not yet appeared in this case filed in federal court. Nothing in the Notice of Removal or its attachments recites whether Interstate has been served in this case, and if so, explains the absence of Interstate’s written consent to the Notice of Removal. *Miller v. Fed. Int’l, Inc.*, No. 09-CV-105-JPG, 2009 WL 535945, at *1 (S.D. Ill. Mar. 4, 2009) (“The failure of even one served defendant to timely consent to removal in writing renders a notice of removal defective and subject to remand unless the removing defendants explain the absence of the missing defendant.” (citation omitted)).

Therefore, Defendants are AFFORDED to and including August 22, 2019, to file an amended notice of removal that remedies the deficiencies identified in this Opinion and Order.

SO ORDERED.

Entered this 15th day of August 2019.

/s/ Susan Collins

Susan Collins

United States Magistrate Judge