

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ANTON REALTY, LLC,)
ANDY MOHR TRUCK CENTER, INC.,)

Plaintiffs,)

vs.)

GUARDIAN BROKERS LTD., INC.,)
NATIONAL BANK OF COMMERCE, NA,)

Defendants.)

No. 1:13-cv-01915-JMS-TAB

GUARDIAN BROKERS LTD., INC.,)

Counter Claimant,)

vs.)

ANDY MOHR TRUCK CENTER, INC.,)
ANTON REALTY, LLC,)

Counter Defendants.)

ORDER

On February 5, 2015, the parties filed a Joint Jurisdiction Statement pursuant to a previous order from the Court to do so. [[Filing No. 110](#); [Filing No. 112](#).] Because of deficiencies in the jurisdictional allegations of that statement, another jurisdictional statement is required.

First, the parties assert that Plaintiff Anton Realty LLC (“Anton”) is an Indiana Limited Liability Company with its principal place of business in Indiana. [[Filing No. 112](#).] The parties represent that Andrew Mohr “is the sole member of Anton Realty,” but they fail to assert Mr. Mohr’s citizenship, instead representing that he “is an Indiana resident.” [[Filing No. 112 at 1](#).]

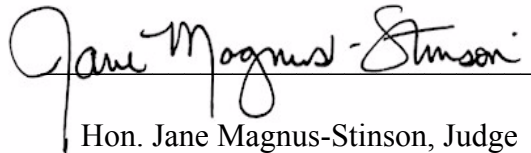
An allegation of residence is inadequate. [*McMahon v. Bunn-O-Matic Corp.*, 150 F.3d 651, 653 \(7th Cir. 1998\)](#). Residency and citizenship are not the same, and it is the latter that matters for purposes of diversity. [*Meyerson v. Harrah's East Chicago Casino*, 299 F.3d 616, 617 \(7th Cir. 2002\)](#).

Second, the parties assert that Defendant National Bank of Commerce, NA (“NBC”) “is a national banking association with its principal place of business in Alabama.” [\[Filing No. 112 at 1.\]](#) For purposes of establishing citizenship for diversity jurisdiction, a national bank is a citizen of “the State designated in its articles of association as its main office.” [*Wachovia Bank v. Schmidt*, 546 U.S. 303, 318 \(2006\)](#). The parties make no representation regarding the State designated in NBC’s articles of association as its main office.

Third, the parties’ statement represents that “[p]ursuant to agreement with counsel for the Plaintiffs, NBC has not yet filed a responsive pleading in this action; therefore NBC reserves all claims and defenses available to it in this action and at law. NBC is without any knowledge or information concerning the Property (defined below) and makes no statement or representation concerning its value or the amount in controversy in this action.” [\[Filing No. 112 at 2.\]](#) The Court is not bound by any agreement between the parties, and federal subject matter jurisdiction cannot be conferred by consent of the parties. [*Nightingale Home Healthcare, Inc. v. Anodyne Therapy, LLC*, 589 F.3d 881, 886 \(7th Cir. 2009\)](#). Because NBC does not join the other parties’ representation that the amount in controversy in this action is \$75,000, exclusive of interest and costs, the Court cannot confirm that it has diversity jurisdiction over this action. If the property at issue is in fact valued at \$700,000, as the other parties represent, [\[Filing No. 112 at 2\]](#), NBC should be able to quickly confirm that the amount in controversy meets the required jurisdictional amount.

For these reasons, the Court **STRIKES** the parties' Joint Jurisdictional Statement at [Filing No. 112](#). The parties are **ORDERED** to conduct whatever investigation is necessary to file a joint jurisdictional statement by **February 23, 2015**, correcting the deficiencies identified herein and with which all parties can agree. If the parties cannot agree on the contents of a joint jurisdictional statement after diligent inquiry and effort, they are ordered to file competing statements by that date.

February 9, 2015



Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

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