

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

MARSHA RUDDELL BROWN,)	
<i>Plaintiff,</i>)	
)	
vs.)	1:14-cv-00931-JMS-DML
)	
BMW OF NORTH AMERICA, LLC, AND BAY-)	
ERISCHE MOTOREN WERKE AG,)	
<i>Defendants.</i>)	

ORDER TO FILE SECOND AMENDED COMPLAINT

On June 10, 2014, Plaintiff Marsha Ruddell Brown was ordered to file an amended complaint to address deficiencies in the jurisdictional allegations of her original complaint. [[Filing No. 5.](#)] Plaintiff has filed an Amended Complaint, [[Filing No. 6](#)], and Defendant BMW of North America, LLC (“BMW NA”) has filed its Answer, [[Filing No. 12](#)]. Defendant Bayerische Motoren Werke AG (“BMW AG”) has filed a Motion to Dismiss for Insufficient Service of Process Pursuant to Federal Rule of Civil Procedure 12(b)(5). [[Filing No. 13.](#)] BMW NA has filed a Motion to Quash Purported Service on BMW AG. [[Filing No. 15.](#)]

After reviewing these filings, the Court notes that Plaintiff has still failed to properly plead the existence of diversity jurisdiction in her Amended Complaint. [[Filing No. 6.](#)] Plaintiff alleges that she “is a resident of the State of Indiana,” [[Filing No. 6 at 1](#)], but 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).

Because Plaintiff still has not properly pled facts to support the existence of this Court’s diversity jurisdiction, the Court **STRIKES** her Amended Complaint, [[Filing No. 6](#)], and BMW NA’s Answer, [[Filing No. 12](#)], and **ORDERS** Plaintiff to file a Second Amended Complaint by

August 25, 2014. Since Plaintiff will need to serve her forthcoming Second Amended Complaint on the Defendants, the Court **DENIES AS MOOT** the pending motions regarding Plaintiff's alleged failure to properly serve her previous complaints. [[Filing No. 13](#); [Filing No. 15](#).]

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