

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA

JOHN W. HARTLEY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CIV-09-067-KEW
	)	
CENTER POINT ENERGY, INC.,	)	
	)	
Defendant.	)	

OPINION AND ORDER

This matter comes before the Court on Defendant's Motion to Dismiss filed February 27, 2009 (Docket Entry #6) and Plaintiff's Request to Reassign to LeFlore County Civil District Court filed March 6, 2009 (Docket Entry #8). Plaintiff commenced this case in the District Court in and for LeFlore County, Oklahoma on January 30, 2009, alleging two claims against Defendant, both arising from Defendant's construction of a natural gas compressor station. In his first cause of action, Plaintiff contends Defendant failed to notify him of his right to protest the construction of the station and the station poses a private nuisance to him. In his second claim, Plaintiff asserts Defendant mad a fraudulent application to the Federal Energy Regulatory Commission in stating all landowners within a certain distance of the proposed station had been notified of its intended construction.

On February 20, 2009, Defendant removed Plaintiff's action to this Court based upon diversity of citizenship. Defendant states in its Notice of Removal that Plaintiff resides in LeFlore County,

Oklahoma while Defendant is organized under the laws of the State of Delaware and maintains its principal place of business in Houston, Texas. Defendant also alleges the amount in controversy exceeds \$75,000.00.

Defendant responded to Plaintiff's Petition with a request for dismissal, alleging Plaintiff has named the incorrect party defendant in this case. Defendant states the correct entity operating the station at issue in this case is CenterPoint Energy Gas Transmission Company ("CEGT"). Defendant alleges CEGT is also a Delaware corporation with its principal place of business in Texas. Defendant also states it does not object to allowing Plaintiff, who appears *pro se*, to amend his Petition and name the correct Defendant.

In response, Plaintiff requests leave to amend to name the correct Defendant. He also includes a Request to Reassign, which this Court interprets as a Motion to Remand. Plaintiff requests that this action be returned to the LeFlore County, Oklahoma district court because the to-be-named Defendant, CEGT "is a (sic) Oklahoma State registered corporation and registered as such with the Oklahoma Secretary of State . . . conducting and doing business within and under the laws of the State of Oklahoma." He also contends CEGT operates and conducts business in LeFlore County and that the damages he alleges in this case occurred in LeFlore County.

As an initial matter, Plaintiff will be permitted to file an Amended Complaint to include the appropriate Defendant. A deadline has already been established for the amendment of pleadings in the Scheduling Order entered in this case on April 2, 2009.

With regard to the remand of this case, Plaintiff does not particularly challenge Defendant's assertion of the state of its incorporation or principal place of business. Instead, he asserts Defendant is registered with the Oklahoma Secretary of State to do business in the State of Oklahoma. This registration required under Oklahoma law does not establish the residency of the corporation but rather only permits it to do business in this state. A corporation is a citizen of "any State by which it has been incorporated and of the State where it has its principal place of business. . . ." 28 U.S.C. § 1332(c). Moreover, the fact Defendant does business in the State of Oklahoma, generally, and LeFlore County, specifically, has no bearing on the question of citizenship. As a result, it appears diversity of citizenship does exist and remand is inappropriate.

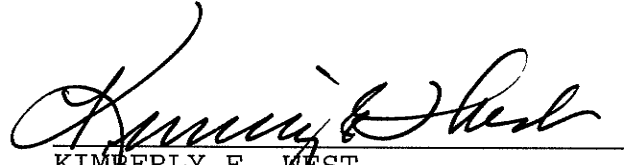
IT IS THEREFORE ORDERED that Defendant's Motion to Dismiss filed February 27, 2009 (Docket Entry #6) is hereby **DENIED**. However, Plaintiff shall file an Amended Complaint naming CEGT as the party defendant no later than **MAY 4, 2009**.

IT IS FURTHER ORDERED that Plaintiff's Request to Reassign to LeFlore County Civil District Court [Motion to Remand] filed March

6, 2009 (Docket Entry #8) is hereby **DENIED**.

IT IS FURTHER ORDERED that Plaintiff's duplicate Response and Motion filed March 23, 2009 (Docket Entry #11) is hereby **STRICKEN**.

IT IS SO ORDERED this 9<sup>th</sup> day of April, 2009.

  
KIMBERLY E. WEST  
UNITED STATES MAGISTRATE JUDGE