

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

OFF THE WALL PRODUCTS, LLC d/b/a
OTW SAFETY, a Utah limited liability
corporation,

Plaintiff,

vs.

CONFER PLASTICS, INC., a New York
corporation,

Defendant.

ORDER and MEMORANDUM
DECISION

Case No. 2:11-CV-613-TC

On July 1, 2011, Defendant Confer Plastics, Inc., a New York corporation, removed this action from state court, citing diversity between parties as the basis for this court's jurisdiction.¹ Plaintiff Off The Wall Products, LLC (OTW) filed a Motion to Remand, contending that one of the members of OTW's LLC was a citizen of New York.² If OTS's contention is true, that destroys complete diversity and any basis for this court's jurisdiction. See Shannon's Rainbow, LLC v. Supernova Media Inc., 683 F. Supp. 2d 1261, 1266-67 (D. Utah 2010) (noting that although Tenth Circuit has not decided the issue of LLC citizenship for purposes of diversity jurisdiction analysis, the court followed majority rule that LLC is a citizen of each state in which each LLC member is a citizen); Birdsong v. Westglen Endoscopy Center, LLC, 176 F. Supp. 2d

¹See Docket No. 2 at ¶ 3 (citing 28 U.S.C. § 1332(a)(1) as sole basis for jurisdiction).

²See Docket No. 11.

1245, 1248 (D. Kan. 2001) (same).

Based on declarations and documentation provided by Plaintiff OTW in its memorandum in support and its reply memorandum, Defendant Confer Plastics filed a withdrawal of its opposition to the motion to remand.³ The court has reviewed the papers and agrees, based on the majority rule and the undisputed evidence on the record, that the court does not have jurisdiction over this case. Accordingly, OTW's Motion to Remand (Docket No. 11) is GRANTED and the hearing scheduled for Wednesday, November 16, 2011, is hereby stricken. The Clerk of the Court is directed to remand this case to the Third Judicial District Court in and for Salt Lake County, State of Utah, and to close this matter on the docket.

SO ORDERED this 14th day of November, 2011.

BY THE COURT:

A handwritten signature in black ink that reads "Tena Campbell". The signature is written in a cursive, flowing style.

TENA CAMPBELL
U.S. District Court Judge

³See Docket No. 18.