

HONORABLE RICHARD A. JONES

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7 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 KATHLEEN BOWIE, et al.,

10 Plaintiffs,

11 v.

12 H&K TRUCKING, et al.,

13 Defendants.

CASE NO. C13-1603RAJ

ORDER TO SHOW CAUSE

14 The parties have jointly moved to continue the trial date and related dates. The
15 court DENIES that motion. Dkt. # 17. The court's order setting the trial date and related
16 dates informs the parties that it will alter deadlines only on a showing of good cause. The
17 motion before the court does not establish good cause. It states that "[c]ounsel for
18 defendants has changed," although the only change is the substitution of attorneys from
19 the same law firm. It states that the December 8, 2014 trial date conflicts with defense
20 counsel's schedule, but there is no evidence establishing that conflict, and no description
21 of that conflict. The parties cite an inability to retain experts until they obtain additional
22 records, but they do not explain what records they need, why they have been unable to
23 obtain them, why experts need to review them, what experts the parties have retained or
24 intend to retain, or the subjects on which those experts would offer testimony. The court
25 also observes that the first set of deadlines the parties seek to continue falls on June 11,
26 and the parties have offered no explanation of why they cannot meet those deadlines,

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1 much less deadlines that come later. Finally, the parties request a four-month
2 continuance without explaining why a shorter continuance would not suffice.

3 Putting aside the parties' motion for continuance, the court questions whether it
4 has subject matter jurisdiction. Defendants removed this case from King County
5 Superior Court on the basis of diversity of citizenship between the parties. The complaint
6 asserts that Defendant H&K Trucking is an Oregon company, although it does not allege
7 in what state H&K Trucking has its principal place of business. More importantly, the
8 complaint alleges that Defendant Gordan Smith and his marital community are citizens of
9 Clark County, Washington. Plaintiffs allege that they are Washington residents as well.
10 In short, the complaint alleges that the parties are not of diverse citizenship.

11 In their notice of removal, Defendants state that Mr. Smith is a resident of
12 Hermiston, Oregon. The notice is silent as to the domicile of his marital community.
13 The only support for Defendants' assertion as to Mr. Smith's citizenship is a reference to
14 "Smith Decl. and Ex. A., Complaint." The complaint, as the court has just noted, asserts
15 that Mr. Smith is a resident of Washington. The only "Smith Decl." filed concurrently
16 with the notice of removal is a declaration from Defendants' former counsel. It contains
17 no evidence of Mr. Smith's domicile.

18 Accordingly, the court orders Defendants to show cause why the court should not
19 remand this action to King County Superior Court for lack of subject matter jurisdiction.
20 Defendants shall respond to this order in a written submission, including supporting
21 evidence, establishing the domicile of all Defendants. That written submission is due no
22 later than May 14, 2014.

23 Dated this 30th day of April, 2014.

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26 The Honorable Richard A. Jones
27 United States District Court Judge