

IP 08-0523-C y/k Wilson v. American Family Ins.
Magistrate Tim A. Baker

Signed on 06/19/09

NOT INTENDED FOR PUBLICATION IN PRINT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

OLGA WILSON,)	
)	
Plaintiff,)	
vs.)	NO. 1:08-cv-00523-TAB-RLY
)	
AMERICAN FAMILY INSURANCE GROUP,)	
)	
Defendant.)	

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

OLGA WILSON,)
Plaintiff,)
)
vs.) 1:08-cv-523- RLY-TAB
)
AMERICAN FAMILY INSURANCE)
GROUP,)
Defendant.)

ORDER

At the initial pretrial conference held on November 17, 2008, the Court noted jurisdictional problems in Defendant American Family Mutual Insurance Company's notice of removal, and ordered American Family to supplement the removal notice to address these issues. [Docket No. 23.] American Family unsuccessfully attempted to do so twice. [Docket Nos. 24, 27.] Finally, on the third try, American Family has successfully corrected its removal notice [Docket No. 41], and the Court determines that jurisdiction is proper.

Among other problems, American Family's original notice of removal stated that it is a Wisconsin corporation, but failed to identify its principle place of business. American Family filed a supplemental notice of removal wherein it stated that it "is a Wisconsin corporation doing business in the State of Indiana," [Docket No. 24], still failing to identify its principal place of business. [Docket No. 26 at 1.] Defendant again supplemented that it "is a mutual insurance company, owned by its policy holders, with its principal place of business in Madison, Wisconsin." [Docket No. 27.] The Court determined that if American Family was not a corporation, this information was not sufficient to satisfy the Court's need to ascertain whether

diversity jurisdiction was appropriate. However, there remained questions about American Family's corporate status given that in other cases "Inc." or "Corp." has appeared in American Family's name. [Docket No. 38 at 2.]

Finally, American Family has filed a third and satisfactory supplemental notice of removal. [Docket No. 41.] It represents itself as a Wisconsin corporation (providing supporting documentation) with its principal place of business in Wisconsin. [*Id.* at ¶ 1.] Because Plaintiff is a citizen of Indiana, diversity jurisdiction is proper. Having successfully supplemented its notice of removal, the Court's show cause order [Docket No. 38] is discharged.

The district court and the parties are charged with ensuring that the parties are diverse for purposes of establishing jurisdiction based on 28 U.S.C. § 1332. *May Dep't Stores Co. v. Fed. Ins. Co.*, 305 F.3d 597, 598-99 (7th Cir. 2002) ("It seems that we shall have to keep repeating until we are blue in the face that whenever a party to a diversity suit is neither a business corporation nor a human being, the district judge and the lawyers for the parties must do careful legal research to determine the citizenship of the party rather than content themselves with making a wild stab in the dark . . ."). The Court relies upon the information provided by the lawyers and admonishes them in future cases to carefully scrutinize and accurately represent the citizenship of each party for diversity citizenship purposes.

Dated: June 19, 2009

/s/ Tim A. Baker
Tim A. Baker
United States Magistrate Judge
Southern District of Indiana

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