

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Amy J. St. Eve	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	13 C 3643	DATE	5/20/2013
CASE TITLE	Simon Bertnstein Irrevocable Ins Trust vs. Jackson National Life Ins		

DOCKET ENTRY TEXT

Defendant has failed to allege subject matter jurisdiction. Defendant has until 5/24/13 to file an Amended Notice of Removal properly alleging diversity or some other basis for federal jurisdiction. Failure to do so will result in remand of the case to the Circuit Court of Cook County .

■[For further details see text below.]

Notices mailed by Judicial staff.

STATEMENT

Defendant Jackson National Life Insurance Company (“Jackson Life”), as successor in interest to Reassure America Life Insurance Company, successor in interest to Heritage Union Life Insurance, has removed this breach of contract action to federal court. Defendant’s notice of removal is premised on diversity jurisdiction as the sole basis for subject matter jurisdiction. “It is axiomatic that a federal court must assure itself that it possesses jurisdiction over the subject matter of an action before it can proceed to take any action respecting the merits of the action. The requirement that jurisdiction be established as a threshold matter ‘springs from the nature and limits of the judicial power of the United States’ and is ‘inflexible and without exception.’” *Cook v. Winfrey*, 141 F.3d 322, 325 (7th Cir. 1998), *quoting Steel C. v. Citizens for a Better Env’t*, 523 U.S. 83, 94 (1998).

The Simon Bernstein Irrevocable Insurance Trust DTD 6/21/95 is the plaintiff in this lawsuit. The law is clear that “trusts don’t have their own citizenship; they take the citizenship of the trustee (or citizenships, if there are multiple trustees).” *White Pearl Inversiones S.A. (Uruguay) v. Cemusa*, 647 F.3d 684, 686 (7th Cir. 2011). Defendant correctly alleges that Ted S. Bernstein is the trustee of the Plaintiff Trust for citizenship purposes, however, Defendant alleges Mr. Bernstein’s residence as Florida. (R.1 at ¶ 3.) Allegations of residence, however, are insufficient to establish diversity. *Winforge, Inc. v. Coachmen Indus., Inc.*, 691 F.3d 856, 867 (7th Cir. 2013); *Heinen v. Northrop Grumman Corp.*, 671 F.3d 669, 670 (7th Cir. 2012). “It is well settled that [w]hen the parties allege residence but not citizenship, the court must dismiss the suit.” *Held v. Held*, 137 F.3d 998, 1000 (7th Cir. 1998) (citations and quotations omitted). Because Defendant only alleges the trustee’s residence and not his citizenship, the allegations do not establish diversity.

Accordingly, Defendant has until May 24, 2013 to file an Amended Notice of Removal properly alleging diversity or some other basis for federal jurisdiction. Failure to do so will result in remand of the case to the Circuit Court of Cook County.

Courtroom Deputy
Initials:

KF