

No. 12-5787

Wilmington Plantation, LLC v. Fidelity National Title Insurance Company

judgment to Fidelity on the breach of contract and equitable estoppel claims. This timely appeal followed.

Wilmington alleges in its complaint that it is a limited liability company, organized and existing in the state of Tennessee, with its principal place of business in Tennessee. The complaint also alleges that Fidelity is a corporation, organized and existing in the state of California, with its principal place of business in the state of Florida. A limited liability company has the citizenship of each of its partners or members. *Delay v. Rosenthal Collins Grp.*, 585 F.3d 1003, 1005 (6th Cir. 2009). The complaint does not explicitly plead the complete diversity of the parties in accordance with this principle and therefore, at oral argument, we requested that Wilmington file a statement with the court listing the citizenship of each of its members. In response, Wilmington filed a statement indicating that four of its members are citizens of the state of Florida, which would appear to defeat complete diversity of citizenship. However, diversity is determined at the time an action is commenced. *Sanders v. Kettering Univ.*, 411 F. App'x 771, 781 (6th Cir. 2010) (citing *Napletana v. Hillsdale College*, 385 F.2d 871, 872 (6th Cir. 1967)). Although Fidelity did not contest jurisdiction, federal jurisdiction cannot be obtained by consent and we have an independent obligation to determine that jurisdiction exists. *V&M Star, LP v. Centimark Corp.*, 596 F.3d 354, 356 (6th Cir. 2010). Accordingly, we **REMAND** the case to the district court for further proceedings to determine the citizenship of Wilmington at the commencement of the action and whether it had subject-matter jurisdiction at that time.