

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

COPELCO CAPITAL INC. : CIVIL ACTION
 :
 v. :
 :
 REHAB OPTIONS, INC, and : No. 99-2707
 SHELBY DURHAM :

ORDER-MEMORANDUM

AND NOW, this 8th day of June, 1999, it appears that this court lacks subject matter jurisdiction over this diversity action. 28 U.S.C. § 1332(a)(1), (a)(3).

Plaintiff Copelco Capital, Inc. filed its original complaint on May 26, 1999. The complaint was dismissed without prejudice because the corporate parties' citizenship was not properly pleaded. Order, May 28, 1999. Plaintiff filed an amended complaint on June 4, 1999 which properly averred both the state of incorporation and the principal place of business for each corporate party. Am. compl., ¶¶ 4-7.

However, based on the allegations of citizenship in the amended complaint, it appears that complete diversity is lacking. See Mennen Co. v. Atlantic Mutual Ins. Co., 147 F.3d 287, 290 (3d Cir. 1998). Plaintiff's principal place of business is in New Jersey, and individual defendant Shelby Durham resides in New Jersey. Am. compl., ¶ 5, 8. Although "mere residency in a state is insufficient for purposes of diversity," it is prima facie evidence of domicile. Krasnov v. Dinan, 465 F.2d 1298, 1300 (3d Cir. 1972). Accordingly, it appears diversity is lacking.

Leave is granted until June 21, 1999 within which to file a second amended complaint setting forth sufficient grounds to support this court's subject matter jurisdiction - if they so exist. Otherwise, this action, without more, is dismissed.

Edmund V. Ludwig, J.