

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

HELEN K. SMITH, *et al.* : CIVIL ACTION  
: :  
v. : :  
: :  
SEARS ROEBUCK AND CO., *et al.* : NO. 09-5701

MEMORANDUM

Fullam, Sr. J.

January 13, 2010

The defendants Ingersoll Rand Company and Dor-O-Matic of Mid Atlantic States, Inc., removed this personal-injury case from the Philadelphia Court of Common Pleas on the basis of diversity jurisdiction. The plaintiffs, citizens of Pennsylvania, have filed a motion for remand, noting that several of the defendant entities are also citizens of Pennsylvania by virtue of having their principal places of business in the Commonwealth. The plaintiffs request fees and expenses associated with the faulty removal.

In response, the removing defendants do not dispute the lack of diversity jurisdiction (nor does anyone else), but argue that they acted in good faith by making inquiries as to the principal places of business of the other defendants before filing the petition for removal, and that fees are not warranted. I agree. The complaint does not allege that any defendant is incorporated in Pennsylvania, nor does it allege the "principal" place of business for each defendant, only "a" place of business.

As counsel for the removing defendants did make some effort to determine whether diversity jurisdiction existed before filing the petition, I will not award fees or costs to the plaintiffs.

An order follows.

BY THE COURT:

/s/ John P. Fullam  
John P. Fullam, Sr. J.

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**ORDER**

AND NOW, this 13<sup>th</sup> day of January 2010, upon consideration of Plaintiff's Motion to Remand, and the response thereto, IT is ORDERED:

That the Motion is GRANTED and this action is REMANDED to the Court of Common Pleas of Philadelphia County, Pennsylvania. IT IS further ORDERED that the request for fees and costs is DENIED.

BY THE COURT:

/s/ John P. Fullam  
John P. Fullam, Sr. J.