

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

REBECCA GOETZ, et al.,	:	
	:	
Plaintiffs,	:	CIVIL ACTION NO. 04-1662 (MLC)
	:	
v.	:	ORDER TO SHOW CAUSE
	:	
CAPITAL HEALTH SYSTEMS, INC.,	:	
et al.,	:	
	:	
Defendants.	:	
_____	:	

THIS MATTER COMING BEFORE THE COURT on the Court's own review; and the plaintiffs bringing this action, inter alia, to recover damages for medical malpractice, and alleging that the Court has jurisdiction under 28 U.S.C. § ("Section") 1332 (Compl. at 2); and a plaintiff bearing the burden of showing that such jurisdiction exists, Dev. Fin. Corp. v. Alpha Hous. & Health Care, 54 F.3d 156, 158 (3d Cir. 1995); and the Court examining jurisdiction sua sponte, see Fed.R.Civ.P. 12(h)(3) (stating court shall dismiss complaint if subject matter jurisdiction appears lacking); and

THE PLAINTIFFS ALLEGING that they are Pennsylvania citizens (Compl. at 2); and the plaintiffs alleging that (1) the defendants Capital Health Systems, Inc. ("CHSI") and Capital Health Systems Services ("CHSS") are "organizations doing business in the State of New Jersey," (2) the defendant Lawrence Ob-Gyn Associates, P.C. ("LOGA") is "an organization registered

to do business in the state of New Jersey,” and (3) the defendant Laboratory Corporation of America (“LabCorp”) is an “organization headquarters [sic] located . . . [in] North Carolina” (id. at 2-3); but it appearing that such allegations are insufficient because they fail to allege the nature of the ownership of CHSI, CHSS, LOGA, and LabCorp (e.g., corporations, limited partnerships, limited liability companies), thereby preventing the Court from analyzing the citizenship of each;¹ and

THE PLAINTIFFS ALLEGING FURTHER that the defendants Daniel Small and William Stanell are “physician[s] licensed to practice medicine in the state of New Jersey” and “agent[s], servant[s], workm[e]n, and/or employee[s] of [LOGA]” (id. at 2); but it appearing that allegations as to where the individual defendants are licensed or work – as opposed to their citizenship – “do not properly invoke this Court’s jurisdiction when premised upon diversity of citizenship,” Forman v. BRI Corp., 532 F. Supp. 49, 51 (E.D. Pa. 1982), see Wolfe v. Hartford Life & Annuity Ins.

¹ Counsel is advised that a corporation is deemed a citizen of the states wherein it (1) is incorporated and (2) has its principal place of business. See 28 U.S.C. § 1332(c)(1). Counsel is further advised that unincorporated associations, such as limited partnerships and limited liability companies, are deemed citizens of each state in which their members are citizens. See Carden v. Arkoma Assocs., 494 U.S. 185, 195-96 (1990); Kalian at Poconos v. Saw Creek Ests. Cmty. Ass’n, 275 F. Supp. 2d 578, 586 (M.D. Pa. 2003); Ketterson v. Wolf, No. 99-689, 2001 WL 940909, at *3 (D. Del. Aug. 14, 2001).

Co., 148 U.S. 389, 389 (1893), Guerrino v. Ohio Cas. Ins. Co., 423 F.2d 419, 421 (3d Cir. 1970); and

THE COURT BEING UNABLE to determine if there is diversity of citizenship and if jurisdiction under Section 1332 exists here, as the plaintiffs have failed to sufficiently allege the citizenship of any of the defendants; and the Court being concerned that at least one defendant will be deemed a citizen of, among other states, Pennsylvania, and thus that there is no jurisdiction under Section 1332 here; and it appearing that when plaintiffs are represented by counsel, the Court "should not need to underscore the importance of adequately pleading and proving diversity," CGB Occ. Therapy v. RHA Health Servs., 357 F.3d 375, 382 n.6 (3d Cir. 2004); and the Court intending to dismiss the complaint for lack of jurisdiction under Section 1332 unless (1) the citizenship of each defendant is alleged properly, and (2) diversity of citizenship is demonstrated;² and good cause appearing;

² Counsel is advised that an allegation as to the citizenship of any defendant that is "upon information and belief" will be insufficient.

IT IS THEREFORE on this 29th day of April, 2004
ORDERED that the parties shall **SHOW CAUSE** on Friday, May 28,
2004, why the complaint should not be dismissed for lack of
jurisdiction under 28 U.S.C. § 1332; and

IT IS FURTHER ORDERED that the parties shall file any
response to the order to show cause on the following schedule:

May 13, 2004 Plaintiffs' response to order to show cause

May 21, 2004 Defendants' response to order to show cause

May 27, 2004 Plaintiffs' reply; and

IT IS FURTHER ORDERED that this matter will be decided on
the papers without oral argument pursuant to Federal Rule of
Civil Procedure 78, unless the parties are notified otherwise by
the Court.

s/ Mary L. Cooper
MARY L. COOPER
United States District Judge