

Normandie Oz, LLC v. Interra-Sky Normandie, LLC

Decided Jun 16, 2021

Civil Action H-20-1069

06-16-2021

THE NORMANDIE OZ, LLC, Plaintiff, v. INTERRA-SKY NORMANDIE, LLC, Defendant.

Lee H. Rosenthal Chief United States District Judge

MEMORANDUM AND ORDER OF DISMISSAL

Lee H. Rosenthal Chief United States District Judge

1 The Normandie Oz, LLC has moved to dismiss this case for lack of subject-matter jurisdiction. (Docket Entry No. 32). In its complaint, The Normandie Oz asserted diversity jurisdiction under [28 U.S.C. *1 § 1332](#). (Docket Entry No. 27 at ¶ 3). The Normandie Oz now argues that the court does not have subject-matter jurisdiction because the parties are not diverse.

The Normandie Oz and Interra-Sky Normandie, LLC are limited-liability corporations. For purposes of diversity jurisdiction, their citizenship is based on the citizenship of each of their members. *MidCap Media Finance, L.L.C. v. Pathway Data, Inc.*, [929 F.3d 310, 314](#) (5th Cir. 2019); *Greenville Imaging, LLC v. Washington Hosp. Corp.*, [326 Fed.Appx. 797, 798](#) (5th Cir. 2009) (per curiam). Both The Normandie Oz and Interra-Sky Normandie have members who are New York citizens, which makes them nondiverse. (Docket Entry Nos. 32-1, 32-2). The court lacks subject-matter jurisdiction. *See Harvey v. Grey Wolf Drilling Co.*, [542 F.3d 1077, 1079](#) (5th Cir. 2008) (diversity jurisdiction “requires that all persons on one side of the controversy be citizens of different states than all person on other side” (quotation marks omitted))

Interra-Sky Normandie responds that the agreement at the heart of this case contains a clause stating that the parties “irrevocably consent to the exclusive jurisdiction and venue of [the] United States District Court for the Southern District of Texas.” (Docket Entry No. 33). That clause does not affect the jurisdictional analysis, because parties cannot establish federal subject-matter jurisdiction by consent, and the clause consents only to personal jurisdiction and venue in this district. *See, e.g., Midcap Media Finance*, [929 F.3d at 313](#) (“Notwithstanding the parties' agreement, [federal courts] have an independent obligation to assess [their] own jurisdiction before exercising the judicial power of the United States.”); *Simon v. Wal-Mart Stores, Inc.*, [193 F.3d 848, 850](#) (5th Cir. 1999) (parties “may neither consent to nor waive federal subject matter jurisdiction”).

2 This case is dismissed, without prejudice, for lack of subject-matter jurisdiction. *2
