

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

CHAMBERS OF
ANDRE M. DAVIS
UNITED STATES DISTRICT JUDGE

U.S. COURTHOUSE
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November 24, 2008

MEMORANDUM TO COUNSEL RE:

Hiob v. Progressive American Ins. Co.
Civil No. AMD 08-744

I have reviewed the briefing on the motion to remand this declaratory judgment action and I have determined to rule in this informal manner.

The issue presented is whether defendant Erie Insurance Exchange is, like the United Services Automobile Association, *see Tuck v. U.S.A.A.*, 859 F.2d 842 (10th Cir.1988), a reciprocal insurance exchange whose citizenship under the diversity statute is that of all of its member/policyholders. The following appears on page three of the Erie Indemnity Company's 2008 10-K report filed with the SEC:

Erie Indemnity Company (Company), a Pennsylvania corporation, operates predominantly as the management services company that provides sales, underwriting and policy issuance services to the policyholders of Erie Insurance Exchange (Exchange). *The Exchange is a reciprocal insurance exchange, which is an unincorporated association of individuals, partnerships and corporations that agree to insure one another. Each applicant for insurance to a reciprocal insurance exchange signs a subscriber's agreement that contains an appointment of an attorney-in-fact. We have served as the attorney-in-fact for the policyholders of the Exchange since 1925.*(Emphasis added).

It seems clear, therefore, as *Tuck* noted under analogous circumstances, and as Erie Insurance Exchange contends in its motion to remand, that because Erie Insurance Exchange has members/policyholders who are citizens of Maryland, this court lacks jurisdiction over this removed action for lack of complete diversity. *Tuck, supra; accord Olson v. Lacey*, 2006 WL 3017486 (W.D.Wis., Oct. 19, 2006).

Accordingly, the motion to remand is GRANTED. An Order follows.

Very truly yours,

/s/

Andre M. Davis
United States District Judge

AMD:tt