

## BLOGS

Jurisdiction and Procedure

# New Jersey Federal Court Denies Motion for Default Judgment for Lack of Subject-Matter Jurisdiction

A federal court in New Jersey refused a motion for default judgment where a franchisor plaintiff and the franchisee defendant were both Canadian citizens. *Wyndham Hotel Group Canada, v. Ostrander*, 2022 WL 16552817 (D.N.J. Oct. 31, 2022).

A federal court in New Jersey refused a motion for default judgment where a franchisor plaintiff and the franchisee defendant were both Canadian citizens. *Wyndham Hotel Group Canada, v. Ostrander*, 2022 WL 16552817 (D.N.J. Oct. 31, 2022). Brian Ostrander was a Super 8 hotel franchisee pursuant to an agreement with Wyndham—itsself an affiliate of Super 8 Worldwide. Ostrander unilaterally terminated the agreement and failed to pay liquidated damages and outstanding fees, and Wyndham and Super 8 sued Ostrander to enforce the agreement. The complaint alleged that Wyndham was a Nova Scotia unlimited liability corporation with its principal place of business in New Jersey, that Super 8 was a South Dakota corporation with its principal place of business in South Dakota, and that Ostrander was a Canadian citizen. When Ostrander failed to respond, Wyndham and Super 8 moved for entry of default and default judgment. Wyndham argued that, while it was a citizen of both Canada and New Jersey, only its United States citizenship counted for purposes of jurisdiction.

The court disagreed, concluding that a Canadian unlimited liability corporation should be treated for citizenship purposes like a United States corporation, with dual citizenship in both its place of organization and the location of its principal place of business. For a corporation, each corporate citizenship is considered when analyzing diversity jurisdiction. The court reasoned that corporations should not be permitted to engineer their citizenship to promote or dodge a court's jurisdiction. Because Wyndham is organized under the laws of a Canadian province, it is a citizen of Canada. Diversity does not exist between two alien parties and complete diversity was lacking between the plaintiffs and the defendant, so the court concluded that it lacked subject-matter jurisdiction over the lawsuit.

## Related People

### Justin L. Sallis

Partner

Washington, D.C.

202.295.2223

[justin.sallis@lathropgpm.com](mailto:justin.sallis@lathropgpm.com)

## Related Services

[Franchise & Distribution](#)