

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

WACHOVIA BANK, NATIONAL ASSOCIATION,)

Plaintiff,)

v.) **Civil Action No. 09-0072-KD-B**

HORIZON WHOLESALE FOODS, LLC,)
WARREN DAY, LEONARD L.)
GILBERT, and JEFFREY F. PARR,)

Defendants.)

ORDER

This matter is before the Court on a *sua sponte* review of its jurisdiction in this matter. See Alabama Power Co. v. U.S. Dept. of Energy, 307 F.3d 1300, 1308 (11th Cir. 2002) (A court has an independent duty to examine its own jurisdiction); *accord* University of South Alabama v. American Tobacco Co., 168 F.3d 409, 411 (11th Cir. 1999).

Plaintiff Wachovia Bank NA brings this action in federal court on basis of diversity of citizenship. 28 U.S.C. § 1332. Plaintiff alleges that its principal place of business is in Mecklenberg County, North Carolina; that defendant Horizon Wholesale Foods, LLC, is a limited liability company organized under the laws of the State of Florida with its principal place of business in Mobile County, Alabama; that defendant Warren Day is a citizen of Florida; that defendant Leonard L. Gilbert is a citizen of Alabama; and that defendant Jeffrey F. Parr is a citizen of Mississippi.

For diversity of citizenship purposes, a limited liability company, such as Horizon, is a citizen of any state of which a member of the company is a citizen. See Rolling Greens MHP,

L.P. v. Comcast SCH Holdings, LLC, 374 F. 3d 1020, 1023 (11th Cir. 2004) ("The federal appellate courts that have answered this question have all answered it in the same way: like a limited partnership, a limited liability company is a citizen of any state of which a member of the company is a citizen. We join them in this holding.) In the complaint, plaintiff does not identify the members of Horizon nor allege the citizenship of Horizon's members. That information is necessary for the undersigned to determine whether this action is properly before this Court on the basis of diversity jurisdiction.

Accordingly, plaintiff is **ORDERED** to supplement its complaint on or before **April 3, 2009**, to identify the members of Horizon Wholesale Foods, LLC, along with their respective citizenship.

DONE this the 23rd day of March, 2009.

s/ Kristi K. DuBose
KRISTI K. DuBOSE
UNITED STATES DISTRICT JUDGE