

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Chief Judge Philip A. Brimmer

Civil Action No. 19-cv-02664-PAB

DAVID S. ELLIS,

Plaintiff,

v.

H LAZY P CATTLE COMPANY, LLC,

Defendant.

SECOND ORDER TO SHOW CAUSE

This matter is before the Court on Plaintiff's Response to the Court's September 20, 2019 Order to Show Cause [Docket No. 4]. Plaintiff states that the Court has subject matter jurisdiction over this lawsuit pursuant to 28 U.S.C. § 1332. Docket No. 5.

Plaintiff filed this lawsuit on September 18, 2019. Docket No. 1. On September 20, 2019, the Court ordered plaintiff to show cause why the case should not be dismissed due to the Court's lack of subject matter jurisdiction. Docket No. 4. The Court observed that plaintiff's allegations were insufficient to establish diversity jurisdiction for two reasons. First, plaintiff failed to allege his citizenship. Second, plaintiff did not identify the citizenship of the members of defendant limited liability company ("LLC").

Plaintiff filed his response to the Court's show cause order on September 27, 2019. Docket No. 5. In that response, plaintiff alleges that he is a citizen of Texas and that defendant is a Colorado company that was "formed by a sole individual" who is a

“resident of Colorado.” Docket No. 5. Additionally, the plaintiff filed an amended complaint that alleges that the sole individual who formed defendant is a citizen of Colorado. Docket No. 6 at 1.

Although plaintiff has adequately pled that he is a citizen of Texas, his allegations as to defendant are still insufficient. Citizenship of an LLC is determined by the citizenship of all its members. See *Siloam Springs Hotel, LLC v. Century Sur. Co.*, 781 F.3d 1233, 1237-38 (10th Cir. 2015) (“[I]n determining the citizenship of an unincorporated association for purposes of diversity, federal courts must include all the entities’ members.”). Plaintiff has not identified any of the members of defendant. The fact that someone forms an LLC does not make that person a member of the LLC.

Plaintiff’s allegations are presently insufficient to allow the Court to determine the defendant’s citizenship or whether the Court has subject matter jurisdiction. See *United States ex rel. General Rock & Sand Corp. v. Chuska Dev. Corp.*, 55 F.3d 1491, 1495 (10th Cir. 1995) (“The party seeking the exercise of jurisdiction in his favor must allege in his pleading the facts essential to show jurisdiction.” (internal quotation marks omitted)). Plaintiff will be given one more opportunity to identify subject matter jurisdiction. It is

ORDERED that, on or before **Monday, October 21, 2019**, plaintiff shall show cause why this case should not be dismissed due to the Court’s lack of subject matter jurisdiction.

DATED October 8, 2019.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
Chief United States District Judge