

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

AKB WIRELESS, INC., a Florida
corporation

Plaintiff,

v.

Case No: 2:14-cv-171-FtM-38CM

WIRELESS TOYZ FRANCHISE, LLC,

Defendant.

ORDER¹

This matter comes before the Court on review of the Complaint ([Doc. #1](#)) filed March 25, 2014. Plaintiff AKB Wireless, Inc. brings this cause against Defendant Wireless Toyz Franchise, LLC based on diversity jurisdiction. Claims properly brought in federal court pursuant to diversity jurisdiction contain matters where the parties are completely diverse with regard to citizenship and where the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs. [28 U.S.C. § 1332\(a\)](#); [Morrison v. Allstate Indem. Co.](#), 228 F.3d 1255, 1261 (11th Cir. 2000). In an action filed directly in federal court, plaintiff bears the burden of adequately pleading, and ultimately proving, jurisdiction. [King v. Cessna Aircraft Co.](#), 505 F.3d 1160, 1171 (11th Cir. 2007).

Based on the Complaint, the Court does not have subject matter jurisdiction because Plaintiff fails to properly indicate Defendant's citizenship. A limited liability

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company (hereinafter “LLC”) is a citizen of every state in which one of its members is located. [Moreno v. Breitburn Florida, LLC](#), No. 2:09-cv-566-FtM-29DNF, 2011 WL 2293124 at *1 (M.D. Fla. June 9, 2011) (citing [Rolling Greens MHP, L.P. v. Comcast SCH Holdings, LLC](#), 374 F.3d 1020 (11th Cir. 2004)). Each member of the LLC must be diverse from the plaintiff in this case. [Lincoln Prop. Co. v. Roche](#), 546 U.S. 81, 89, 126 S.Ct. 606, 163 L.Ed.2d 415 (2005) (“Since [Strawbridge v. Curtiss](#), 3 Cranch 267, 2 L.Ed. 435, this Court has read the statutory formulation ‘between ... citizens of different States,’ 28 U.S.C. § 1332(a)(1), to require complete diversity between all plaintiffs and all defendants.”). Since the Complaint does not properly indicate the Defendant’s citizenship the Court finds it is without authority to facilitate this case at this time.

Accordingly, it is now

ORDERED:

Plaintiff’s Complaint ([Doc. #1](#)) is **DISMISSED without prejudice**. Plaintiff shall file an Amended Complaint properly alleging this Court’s jurisdiction no later than **April 10, 2014**. Failure to comply with this Court’s directive will result in this matter being closed.

DONE and **ORDERED** in Fort Myers, Florida this 28th day of March, 2014.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record