

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

CMG SURETY, LLC, a foreign limited
liability company

Plaintiff,

v.

Case No: 2:17-cv-208-FtM-38CM

RONALD R. TILLER,

Defendant.

_____ /

OPINION AND ORDER¹

This matter comes before the Court on *sua sponte* review of the Complaint filed on April 18, 2017. ([Doc. 1](#)). Plaintiff CMG Surety, LLC brings this unjust enrichment suit against Defendant Ronald R. Tiller because, in a previous litigation, CMG had paid Tiller's portion of the settlement and his attorney's fees. (*Id.*). CMG cites diversity jurisdiction as the basis for the Court's subject matter jurisdiction. (*Id.* at ¶ 4).

Federal courts are courts of limited jurisdiction and are obligated to inquire about jurisdiction *sua sponte* whenever it may be lacking. See [Kokkonen v. Guardian Life Ins. Co. of Am.](#), 511 U.S. 375, 377 (1994); [Univ. of S. Ala. v. Am. Tobacco Co.](#), 168 F.3d 405, 410 (11th Cir. 1999) (citations omitted). In an action filed directly in federal court, a plaintiff

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bears the burden of adequately pleading, and ultimately proving jurisdiction. See *King v. Cessna Aircraft Co.*, 505 F.3d 1160, 1170 (11th Cir. 2007). Federal courts have original jurisdiction over a matter if the amount in controversy exceeds \$75,000, exclusive of interest and costs, and there is complete diversity of citizenship among the parties. See 28 U.S.C. § 1332(a); *Morrison v. Allstate Indem. Co.*, 228 F.3d 1255, 1261 (11th Cir. 2000). Here, the diversity of citizenship prong poses a jurisdictional hurdle.


A limited liability company (“LLC”), like CMG, is a citizen of every state in which one of its members is located. See *Rolling Greens MHP, L.P. v. Comcast SCH Holdings L.L.C.*, 374 F.3d 1020, 1022 (11th Cir. 2004); see also *McCormick v. Aderholt*, 293 F.3d 1254, 1257 (11th Cir. 2002) (stating that an individual is a citizen where he is domiciled, not necessarily where he is a resident). Each member of the LLC must be diverse from the plaintiff. See *Lincoln Prop. Co. v. Roche*, 546 U.S. 81, 89 (2005). In the Complaint, CMG alleges that it is a foreign LLC with its principal place of business in Naples, Florida. But it fails to allege where its members are domiciled. (Doc. 1 at ¶ 2). Without such allegations, CMG has not adequately pleaded diversity of citizenship. The Court thus lacks subject matter jurisdiction over this case.

Accordingly, it is now

ORDERED:

The Complaint (Doc. 1) is **DISMISSED without prejudice**. Plaintiff CMG Surety, LLC, shall have up to and including **April 26, 2017**, to file an amended complaint that properly alleges this Court’s subject matter jurisdiction. **Failure to do so will result in this case being dismissed without further notice.**

DONE and **ORDERED** in Fort Myers, Florida this 19th day of April, 2017.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record