

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

HOMERO MUNOZ, JR., YESENIA  
GONZALEZ, individually, and as next of  
friend to N.M. and A.M.,

Plaintiffs,

v.

Case No: 2:17-cv-478-FtM-38CM

FRANKIE SANCHEZ d/b/a F  
SANCHEZ TRUCKING

Defendant.

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**OPINION AND ORDER**<sup>1</sup>

This matter comes before the Court on *sua sponte* review of the Complaint. ([Doc.](#)

1). Plaintiffs bring this negligence suit against Frankie Sanchez d/b/a F Sanchez Trucking for injuries they sustained while passengers in a tractor-trailer driven by Sanchez. Plaintiffs cite diversity jurisdiction as the basis for this Court's subject matter jurisdiction. ([Doc. 1 at ¶ 3](#)).

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,

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410 (11th Cir. 1999) (citations omitted). In an action filed directly in federal court, a plaintiff 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 case 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.

As best the Court can tell, Plaintiffs are suing Frankie Sanchez in his corporate capacity. But they merely allege that Sanchez resides in Immokalee, Florida. (Doc. 1 at ¶¶ 2, 4). This is insufficient. See, e.g., 28 U.S.C. § 1332(c)(1) (stating “a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business”); *Rolling Greens MHP, L.P. v. Comcast SCH Holdings L.L.C.*, 374 F.3d 1020, 1022 (11th Cir. 2004) (stating a limited liability company is a citizen of every state in which one of its members is located). And even if Plaintiffs are suing Sanchez in his individual capacity, residence is not *per se* sufficient to establish domicile. See *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). Because Plaintiffs have not adequately pleaded diversity of citizenship, the Court lacks subject matter jurisdiction.

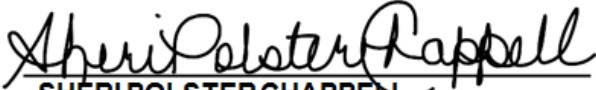
Accordingly, it is now

**ORDERED:**

The Complaint (Doc. 1) is **DISMISSED without prejudice**. Plaintiffs have up to and including **September 14, 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 30th day of August, 2017.

  
**SHERI POLSTER CHAPPELL**  
**UNITED STATES DISTRICT JUDGE**

Copies: All Parties of Record