

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

PRO MUSIC RIGHTS, INC and
JAKE P NOCH,

Plaintiffs,

v.

Case No: 2:21-cv-92-SPC-MRM

MILES A GOLDMAN,

Defendant.

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OPINION AND ORDER¹

Before the Court is a *sua sponte* review of the file. Plaintiffs Pro Music Rights, Inc. and Jake P. Noch bring this diversity action against Miles A. Goldman. For this Court to have jurisdiction, Plaintiffs must show the parties are completely diverse with an amount in controversy exceeding \$75,000. [28 U.S.C. § 1332\(a\)](#); *Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, [552 \(2005\)](#). The Court previously dismissed without prejudice Plaintiffs' complaint for lack of jurisdiction. ([Doc. 4](#)).

In the amended complaint, Plaintiffs allege "Defendant Miles Austin Goldman is an individual, who is a resident of the State of Georgia, and is

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currently residing at 3060 Water Brook Dr. Conyers, Georgia 30094.” ([Doc. 5 at 4](#), ¶ 17). This fails to establish jurisdiction. To be a citizen of a state under the diversity provision, a natural person must be a citizen of the United States and a domiciliary of a state. *Las Vistas Villas, S.A., v. Petersen*, 778 F. Supp. 1202, 1204 (M.D. Fla. 1991). A person is not necessarily a citizen of, or domiciled in, the state in which he resides at any given moment. *Mississippi Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 48 (1989). Plaintiffs must allege diversity of citizenship, not just residency. See *Taylor v. Appleton*, 30 F.3d 1365, 1367 (11th Cir. 1994) (“Citizenship, not residence, is the key fact that must be alleged in the complaint to establish diversity for a natural person.”). By only alleging Goldman resides in Georgia and failing to allege what state Goldman is a citizen of, Plaintiffs do not establish jurisdiction.

The Court allowed Plaintiffs a chance to amend their complaint. ([Doc. 4](#)). The Eleventh Circuit has stated litigants must be afforded one chance to amend their complaint before the Court dismisses the action. See *Bryant v. Dupree*, 252 F.3d 1161, 1163 (11th Cir. 2001). The Court need not provide Plaintiffs another chance to amend their complaint and will dismiss the case.

Accordingly, it is now

ORDERED:

1. Plaintiffs’ Amended Complaint ([Doc. 5](#)) is **DISMISSED** without prejudice.

2. The Clerk shall enter judgment accordingly, terminate all remaining deadlines and motions, and close the file.

DONE and **ORDERED** in Fort Myers, Florida on February 17, 2021.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record