

IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION

BRANCH BANKING AND TRUST )  
COMPANY, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
POLYCASE AMMUNITION, LLC; )  
FULSPEC INTERNATIONAL SECURITY )  
SOLUTIONS, LLC; PAUL C. LEMKE; )  
and JOSHUA N. KELLER; )  
 )  
Defendants. )  
 )  
\_\_\_\_\_ )

CASE NO. CV417-179

U. S. DISTRICT COURT  
Southern District of Ga.  
Filed in Office

12-18-2017  
Deputy Clerk

O R D E R

Plaintiff Branch Banking and Trust Company has filed a complaint in this Court that seeks to enforce certain promissory notes and personal guarantees executed by Defendants. (Doc. 1.) In the complaint, Plaintiff attempts to invoke this Court's diversity jurisdiction. (Id. ¶ 11.) However, the jurisdictional allegations contained in the complaint are insufficient to establish complete diversity between the parties.

The party invoking this Court's diversity jurisdiction bears the burden of adequately pleading complete diversity between the parties. See 28 U.S.C. § 1332; Ray v. Bird & Son & Asset Realization Co., 519 F.2d 1081, 1082 (5th Cir. 1975)<sup>1</sup> ("The

<sup>1</sup> In Bonner v. City of Prichard, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc), the Eleventh Circuit adopted as binding precedent all decisions of the former Fifth Circuit handed down prior to October 1, 1981.

burden of pleading diversity of citizenship is upon the party invoking federal jurisdiction, and if jurisdiction is properly challenged, that party also bears the burden of proof.”). For the purposes of diversity jurisdiction, a limited liability company (“LLC”) is a citizen of every state in which any of its members are citizens. Rolling Greens MHP, L.P. v. Comcast SCH Holdings L.L.C., 374 F.3d 1020, 1021-22 (11th Cir. 2004). The Eleventh Circuit Court of Appeals has been explicit in addressing the proper method to allege sufficiently the citizenship of an LLC: “a party must list the citizenships of all the members of the limited liability company.” Id. at 1022.

In this case, Plaintiff’s complaint does not include a list of the individual members, along with their citizenship, of Defendant Polycase Ammunition, LLC (“Polycase”) and Defendant Fulspec International Security Solutions, LLC (“Fulspec”). Rather, the complaint simply states that “Defendant Polycase Ammunition, LLC . . . is a limited liability company organized and existing under the laws of the State of Georgia with its principal place of business in Savannah, Georgia” (id. ¶ 2) and that “Defendant Fulspec International Security Solutions, LLC . . . is a limited liability company organized and existing under the laws of the State of Georgia with its principal place

of business in Savannah, Georgia" (id. ¶ 4). The complaint relies on these allegations to advance the general conclusion that complete diversity exists because both Defendants Polycase and Fulspec are "citizen[s] of the State of Georgia for purposes of diversity jurisdiction." (Id. ¶¶ 2, 4.)

This conclusion, however, is completely incorrect because Defendants Polycase's and Fulspec's citizenships for purposes of diversity jurisdiction are based on neither where they are organized nor where they have established their principal places of business. See Flintlock Constr. Servs., LLC v. Well-Come Holdings, LLC, 710 F.3d 1221, 1224 (11th Cir. 2013) ("For the purpose of determining diversity jurisdiction, 'a limited liability company is a citizen of any state of which a member of the company is a citizen.' A corporation is considered a citizen of every state in which it has been incorporated and where it has its principal place of business." (quoting Rolling Greens, 374 F.3d at 1022) (citing 28 U.S.C. § 1332(c)(1))).

Accordingly, Plaintiff is **DIRECTED** to file an amended complaint within **fourteen days** from the date of this order. As noted above, the amended complaint must properly allege diversity in this case by including the names and citizenships of each member of Defendants Polycase and Fulspec, thus allowing

the Court to confirm that it has jurisdiction to hear this case. Plaintiff should be aware that the Court will not accept any piecemeal amendment or an amended complaint that incorporates any allegation by reference. The amended complaint should be a stand-alone filing that contains all the necessary factual allegations. In addition, a general statement that no members of Defendants Polyspec or Fulspec are North Carolina citizens is also insufficient to invoke this Court's diversity jurisdiction. Plaintiff must list all the individual members, along with their citizenships, for Defendants Polycase and Fulspec. See Rolling Greens, 374 F.3d at 1022

SO ORDERED this 8<sup>th</sup> day of December 2017.

  
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WILLIAM T. MOORE, JR.  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA