

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

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| TOMKINSON DODGE, INC., |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | CAUSE NO. 1:13-CV-174 |
| |) | |
| ENCLOSED AUTO TRANSPORTS, LLC, and TERELL JONES, |) | |
| |) | |
| Defendants. |) | |

OPINION AND ORDER

This case was filed in this Court on May 29, 2013, based on diversity jurisdiction pursuant to 28 U.S.C. § 1332(a). (Docket # 1.) The Complaint alleges that “Enclosed Auto Transports, LLC (“Enclosed Auto”) is a Missouri limited liability company with its principal place of business in St. Louis, Missouri,” and that, “[u]pon information and belief, all the members of Enclosed Auto are citizens of Missouri.” (Compl. ¶¶ 2-3.)

The Complaint, however, is inadequate as to the citizenship of Defendant Enclosed Auto. Because Enclosed Auto is a limited liability company, its citizenship “for purposes of . . . diversity jurisdiction is the citizenship of its members.” *Cosgrove v. Bartolotta*, 150 F.3d 729, 731 (7th Cir. 1998). Although Plaintiff appears to recognize this fact, alleging that “all the members of Enclosed Auto are citizens of Missouri,” it makes that allegation based on “information and belief.” (Compl. ¶ 3.)

But it is well-settled that “[a]llegations of federal subject matter jurisdiction may not be made on the basis of information and belief, only personal knowledge.” *Yount v. Shashek*, No. Civ. 06-753-GPM, 2006 WL 4017975, at *10 n.1 (S.D. Ill. Dec. 7, 2006) (citing *Am.’s Best Inns*,

Inc. v. Best Inns of Abilene, L.P., 980 F.2d 1072, 1074 (7th Cir. 1992)); *Ferolie Corp. v. Advantage Sales & Mktg., LLC*, No. 04 C 5425, 2004 WL 2433114, at *1 (N.D. Ill. Oct. 28, 2004); *Hayes v. Bass Pro Outdoor World, LLC*, No. 02 C 9106, 2003 WL 187411, at *2 (N.D. Ill. Jan. 21, 2003); *Multi-M Int'l, Inc. v. Paige Med. Supply Co., Inc.*, 142 F.R.D. 150, 152 (N.D. Ill. 1992). Consequently, Plaintiff must amend its Complaint to allege the citizenship of all the members of Enclosed Auto on personal knowledge rather than on information and belief.

And, rather than merely alleging that all of Enclosed Auto's members are citizens of Missouri without identifying them, Plaintiff should affirmatively allege *who* Enclosed Auto's members are and what their citizenship is. This citizenship must then be "traced through multiple levels" for those members of Enclosed Auto who are a partnership or a limited liability company, as anything less can result in a dismissal or remand for want of jurisdiction. *Mut. Assignment & Indem. Co. v. Lind-Waldock & Co., LLC*, 364 F.3d 858, 861 (7th Cir. 2004).

Therefore, Plaintiff is ORDERED to supplement the record by filing an Amended Complaint on or before June 17, 2013, properly alleging on personal knowledge all the members of Defendant Enclosed Auto Transports, LLC, and their citizenship.

SO ORDERED.

Enter for this 3rd day of June, 2013.

/S/ Roger B. Cosby
Roger B. Cosby,
United States Magistrate Judge