

Plaintiffs' First Amended Complaint does not appear to touch upon the citizenship of TBI members James Kimble Revocable Living Trust, or Sean Finegan Trust. Global's members (Spray, Brune, Niles, and "potentially others") are pleaded to be residents of California.

A limited liability company is considered to be a citizen of every state of which its owners/members are citizens. GMAC Commercial Credit LLC v. Dillard Dept. Stores, Inc., 357 F3d 827 (8th Cir. 2004). While plaintiffs assert that the court has jurisdiction pursuant to 28 USC §1332 "for the reason that all plaintiffs and all defendants are citizens of different states..." plaintiff pleads residency, rather than citizenship. Jurisdiction under 28 USC §1332 is predicated upon citizenship, which plaintiff has failed to properly plead. Sanders v. Clemco, 823 F2d 214, 216 (8th Cir. 1987); Peoples Bank & Trust Co. v. Rue, 210 FS 952 (ND IA 1962). This matter shall be dismissed unless plaintiff files a supplemental jurisdictional statement by not later than Monday, March 4, 2013, properly pleading subject matter jurisdiction.


The original Complaint in this matter, filed April 4, 2012, was superseded by the First Amended Complaint filed July 2, 2012, and therefore Defendants' Joint Motion to Dismiss or Compel Arbitration filed June 4, 2012, shall be denied as moot, without prejudice to reassertion against the First Amended Complaint. If defendants wish to reassert any part of the previous motion, defendants shall not incorporate previous filings by reference.

It is therefore

ORDERED

1. Defendants' Motion to Dismiss or Compel Arbitration denied without prejudice.
2. Dismissed unless plaintiff files supplemental jurisdictional statement by not later than Monday, March 4, 2013.

February 4, 2013.


Edward J. McManus, Judge
UNITED STATES DISTRICT COURT