

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

NICOLLE BRADBURY, ET AL.,)	
)	
PLAINTIFFS)	
)	
v.)	CIVIL No. 10-458-P-H
)	
GMAC MORTGAGE, LLC.,)	
)	
DEFENDANTS)	

PROCEDURAL ORDER

The Amended Complaint asserts that the defendant GMAC Mortgage, LLC is “a Delaware limited liability company with a principal place of business in Fort Washington, Pennsylvania.” Am. Compl. ¶ 25 (Docket Item 2-27).

The Notice of Removal asserts that the plaintiffs’ allegation is correct and that “[t]hus, GMAC is a citizen of both Delaware and Pennsylvania.” Def.’s Notice of Removal ¶ 4 (Docket Item 1).

The Rule 7.1 Corporate Disclosure Statement asserts that the defendant is a Delaware limited liability company and “is wholly owned by GMAC Residential Holding Company, LLC, also a Delaware limited liability company.” (Docket Item 6).

The First Circuit has held that the citizenship of a limited liability company is to be determined not by the law under which it is organized or where it maintains its principal place of business, but by the citizenship of all its members. Connectu LLC v. Zuckerberg, 522 F.3d 82, 87 (1st Cir. 2008);

Pramco, LLC v. San Juan Bay Marina, Inc., 435 F.3d 51, 54-55 (1st Cir. 2006) (remanding for factual determinations, but seeing no reason to depart from holding of every circuit to consider the issue). Accord Thomas v. Guardsmark, LLC, 487 F.3d 531, 534 (7th Cir. 2007); Johnson v. Columbia Props. Anchorage, LP, 437 F.3d 894, 899 (9th Cir. 2006). But see Ferrell v. Express Check Advance of S.C., LLC, 591 F.3d 698, 700, 705 (4th Cir. 2010) (for purposes of the Class Action Fairness Act, a limited liability company is an unincorporated association deemed to be a citizen of both the state where it is organized and the state where it has its principal place of business).

Since the filings made to date in this lawsuit present an uncertain factual record and since subject matter jurisdiction is not waivable, by February 11, 2011, the parties shall make whatever further filings they deem appropriate to contribute to resolution of the issue of subject matter jurisdiction. If they need further time, they may request it with an explanation why.

SO ORDERED.

DATED THIS 1ST DAY OF FEBRUARY, 2011

/s/D. BROCK HORNB
D. BROCK HORNB
UNITED STATES DISTRICT JUDGE