

UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF MISSOURI
 EASTERN DIVISION

US FOODS, INC.)	
F/K/A US FOODSERVICE, INC.,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:14CV895 CDP
)	
BENCHMARK HEALTHCARE)	
OF FESTUS, INC. F/K/A/ ARBOR)	
PLACE OF FESTUS, et al.)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court on review of the file. The Eighth Circuit has admonished district courts to “be attentive to a satisfaction of jurisdictional requirements in all cases.” *Sanders v. Clemco Indus.*, 823 F.2d 214, 216 (8th Cir. 1987). “In every federal case the court must be satisfied that it has jurisdiction before it turns to the merits of other legal arguments.” *Carlson v. Arrowhead Concrete Works, Inc.*, 445 F.3d 1046, 1050 (8th Cir. 2006). “A plaintiff who seeks to invoke diversity jurisdiction of the federal courts must plead citizenship distinctly and affirmatively.” 15 James Wm. Moore, et al., Moore’s Federal Practice § 102.31 (3d ed. 2013).

The Complaint in this case asserts that the Court has jurisdiction over the action pursuant to 28 U.S.C. § 1332 because the lawsuit is between citizens of

different States and the matter in controversy exceeds the sum of \$75,000. The Complaint alleges that plaintiff US Foods, Inc. is a Delaware corporation with its principal place of business in Illinois. Included in the case are a number of defendant LLCs that are alleged to be Missouri limited liability companies with principal places of business in Missouri. These include: Benchmark Healthcare of Greenville, LLC, f/k/a Heritage Gardens of Greenville, LLC, Benchmark Healthcare of Harrisonville, LLC, Benchmark Healthcare of Lee's Summit, LLC, Benchmark Healthcare of Lexington, LLC, Benchmark Healthcare of Loma Linda, LLC, Benchmark Healthcare of Monett, LLC, Benchmark Healthcare of Portageville, LLC, f/k/a Heritage Gardens of Portageville, LLC, Benchmark Healthcare of Ramsey Creek, LLC, f/k/a Ramsey Creek Village, LLC, Benchmark Healthcare of Raytown, LLC, Benchmark Healthcare of Rolla, LLC, Benchmark Healthcare of St. Charles, LLC, Benchmark Healthcare of Wildwood, LLC, Benchmark Healthcare of Willowbrooke, LLC, Harrisonville Healthcare, LLC, Heritage Gardens of Senath, LLC, Heritage Gardens of Senath South, LLC, Heritage Gardens of Sikeston, LLC. Plaintiff alleges that these LLCs "upon information and belief . . . are/were owned, managed or operated by BHH," a Missouri corporation with principal place of business in Missouri.

Limited liability companies are citizens of every state of which any member is a citizen. *See GMAC Commercial Credit, LLC v. Dillard Dep't Stores, Inc.*, 357 F.3d 827, 829 (8th Cir. 2004). Thus, for every defendant LLC, the Court must examine

the citizenship of each member of the limited liability company to determine whether diversity jurisdiction exists. The Complaint contains no allegations concerning the members of the LLCs or their citizenship. Instead, the only information included in the complaint is that the LLCs are or were “owned, managed, or operated by BHH.” This is insufficient.

The Court will grant plaintiff ten (10) days to file an amended complaint that alleges facts showing the existence of the requisite diversity of citizenship of the parties. If plaintiff fails to timely and fully comply with this Order, the Court will dismiss this matter without prejudice for lack of subject-matter jurisdiction.

Accordingly,

IT IS HEREBY ORDERED that by May 30, 2014, plaintiff shall file an amended complaint that alleges facts establishing the citizenship of each defendant.

IT IS FURTHER ORDERED that if plaintiff does not timely and fully comply with this order, this matter will be dismissed without prejudice for lack of subject-matter jurisdiction.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 20th day of May, 2014.