

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

WILLIAM SHELTON and ALECIA  
SHELTON,

Plaintiffs,

v.

YOUNG'S WELDING AND MACHINE  
SHOP, LLC,

Defendant and Third-  
Party Plaintiff,

v.

SHOW-ME SHORTLINE COMPANY, LLC

Third-Party Defendant

**CASE NO. 8:14CV165**

**MEMORANDUM AND ORDER**

This matter is before the Court on the Court's own motion. (Any party or the court may, at any time, raise the issue of subject matter jurisdiction. *S.D. Farm Bureau, Inc. v. Hazeltine*, 340 F.3d 583, 591 (8th Cir.2003).)

The Plaintiff's Complaint (Filing No. 1) asserts that this Court has jurisdiction over the action pursuant to 28 U.S.C. §1332(a)(1), the statute that confers federal district courts with original jurisdiction over "civil actions where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between – (1) citizens of different States[.]" Plaintiffs allege that they are residents of Nebraska and the Defendant is a limited liability company organized and existing under the laws of the State of Missouri, with its principal place of business in Missouri. (Filing No. 1, ¶¶ 1-3).

“[A]n LLC's citizenship is that of its members for diversity jurisdiction purposes[.]” *GMAC Commercial Credit LLC v. Dillard Dept. Stores, Inc.*, 357 F.3d 827, 829 (8th Cir. 2004). “An LLC is a citizen of every state of which one of its members is a citizen, but is not a citizen of its state of organization unless a member of the LLC is a citizen of that state.” *E3 Biofuels, LLC v. Biothane, LLC*, 6 F.Supp.3d 993, 998 (D.Neb. Mar 19, 2014) Citing *GMAC* at 829, and *OnePoint Solutions, LLC v. Borchert*, 486 F.3d 342, 347 n. 4 (8th Cir.2007).

Based on the allegations in the Complaint, the Court cannot infer that it has jurisdiction over the Plaintiffs' claims, nor over the Defendant's Third-Party Complaint (Filing No. 20). The Plaintiffs will be given leave to file an Amended Complaint on or before January 23, 2015, identifying the citizenship of each member in Defendant Young's Welding and Machine Shop, LLC. If any such member is a corporation, the state of incorporation as well as the principal place of business must be identified. If any such member is another limited liability company, the citizenship of each member of such limited liability company also must be identified. Defendant Young's Welding and Machine Shop, LLC, will respond to the Amended Complaint within 14 days of the filing of the Amended Complaint. The Motion to Dismiss Third-Party Complaint submitted by Third-Party Defendant Show-Me Shortline Company, LLC, will be held in abeyance pending the Court's consideration of the Plaintiffs' Amended Complaint and the Defendant's responsive pleading.

IT IS ORDERED:

1. The Plaintiffs William C. Shelton and Alecia Shelton may file an Amended Complaint on or before January 23, 2015, identifying the citizenship of each member in Defendant Young's Welding and Machine Shop, LLC;

2. If an Amended Complaint is filed, Defendant Young's Welding and Machine Shop, LLC, will respond to the Amended Complaint within 14 days of the filing of the Amended Complaint;

3. In the absence of the filing of an Amended Complaint, this action will be dismissed for lack of jurisdiction; and

4. Third-Party Defendant Show-Me Shortline Company LLC's Motion to Dismiss Third-Party Plaintiff's Complaint (Filing No. 26) will be held in abeyance pending the Court's review of amended pleadings.

Dated this 23<sup>rd</sup> day of December, 2014.

BY THE COURT:

s/Laurie Smith Camp  
Chief United States District Judge