

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
EVELYN RUBINA FRASER MILLER,

Plaintiff,

-against-

416 ROGERS AVENUE LLC and CONSOLIDATED
EDISON COMPANY OF NEW YORK, INC.,

Defendants.

ANALISA TORRES, District Judge:

Plaintiff brings this action against Defendants 416 Rogers Avenue LLC and Consolidated Edison Company of New York, invoking subject matter jurisdiction by reason of diversity of citizenship, 28 U.S.C. § 1332. Plaintiff alleges that Defendant 416 Rogers Avenue LLC is a limited liability company. Accordingly, the complaint must allege the citizenship of natural persons who are members of the limited liability company and the place of incorporation and principal place of business of any corporate entities who are members of the limited liability company. *See Handelsman v. Bedford Vill. Assocs. Ltd. P'ship*, 213 F.3d 48, 51-52 (2d Cir. 2000) (citation omitted).

Plaintiff alleges that she is a citizen of Spain, Compl. ¶ 1, ECF No. 1, and that “no member of 416 Rogers LLC is a citizen of Spain,” *id.* ¶ 3. This allegation is insufficient to establish diversity because it does not exclude the possibility that a member of 416 Rogers LLC is a United States citizen domiciled abroad or is a foreign citizen, both of which would defeat diversity. *See Newman-Green, Inc. v. Alfonzo-Larrain*, 490 U.S. 826, 828–29 (1989) (holding that the “stateless” status of a United States citizen “destroy[s] complete diversity”); *Bayreische Landesbank, N.Y. Branch v. Aladdin Capital Mgmt. LLC*, 692 F.3d 42, 49 (2d Cir. 2012) (“[D]iversity is lacking . . . where on one side there are citizens and [noncitizens] and on the opposite side there are only [noncitizens].”); *id.* (“[A] limited liability company . . . takes the citizenship of each of its members.”).

Accordingly, by **December 8, 2023**, Plaintiff shall amend her pleading to allege the citizenship of each constituent person or entity of Defendant 416 Rogers Avenue LLC. If Plaintiff fails to amend by the foregoing date to truthfully allege complete diversity based upon the citizenship of each constituent person or entity of the LLC, then the complaint will be dismissed for lack of subject matter jurisdiction. *See Fed. R. Civ. P. 12(h)(3)* (“If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”).

SO ORDERED.

Dated: November 15, 2023
New York, New York

USDC SDNY
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23 Civ. 9874 (AT)

ORDER


ANALISA TORRES
United States District Judge