

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:11-cv-32

JESSICA KINGSLEY, Personal)
Representative of the Estate of Julie L.)
Smith, a/k/a Julie Lynn Kingsley-Smith,)
)
Plaintiff,)
)
vs.)
)
BRENDA AND GENE LUMMUS, INC.,)
d/b/a Ghost Town Harley Davidson; and)
GENE LUMMUS HARLEY DAVIDSON,)
INC., d/b/a Ghost Town Harley)
Davidson,)
)
Defendants.)
_____)

ORDER


THIS MATTER is before the Court *sua sponte* to ascertain subject matter jurisdiction. In the amended Complaint, the plaintiff has attempted to allege a cause of action by way of supplementation against TRL Motor Sports, LLC. In the pleading, plaintiff has alleged that TRL Motor Sports, LLC is a Limited Liability Corporation organized and existing under the laws of the state of North Carolina. (Doc. 26, ¶ 38).

Courts have an affirmative duty to question subject matter jurisdiction even when the parties have not done so. Interstate Petroleum Corp. v. Morgan, 249 F.3d 215 (4th Cir. 2001); Plyer v. Moore, 129 F.3d 728, 732 n.6 (4th Cir. 1997),

certiorari denied 524 U.S. 945, 118 S.Ct. 2359, 141 L.Ed.2d 727 (1998); 28 U.S.C. §1447(c)("If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded."). A limited liability company is a citizen of all states in which its constituent members are citizens. Carden v. Arkoma Associates, 494 U.S. 185, 110 S.Ct. 1015, 108 L.Ed.2d 157 (1990). The court will order that the defendant TRL Motor Sports, LLC give the name and citizenship of each member or TRL Motor Sports, LLC.

IT IS, THEREFORE, ORDERED that on or before December 2, 2011, the defendant TRL Motor Sports, LLC shall file a response disclosing the names and citizenships, if any, of all the constituent members or partners of the above referenced LLC, and, for any such constituent member or partner that are limited liability companies or partnerships, to identify the citizenships of the respective constituent members or partners until all such constituents are fully identified.

Signed: November 17, 2011



Dennis L. Howell
United States Magistrate Judge

