

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:12-cv-77**

TD BANK, N.A.,)	
)	
Plaintiff,)	
)	
vs.)	
)	
REYNOLDS MOUNTAIN LAND COMPANY, LLC, MARS HILL CROSSROADS, LLC, MICHAEL WERNER, and BENJAMIN GARFINKLE,)	
)	
Defendants.)	
)	

ORDER

THIS MATTER is before the Court *sua sponte* to ascertain subject matter jurisdiction.

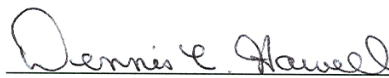
The defendants Reynolds Mountain Land Company, LLC and Mars Hill Crossroads, LLC removed this action from state court based upon diversity jurisdiction (#1). In the Complaint, plaintiff alleges that Reynolds Mountain Land Compnay, LLC is a corporation organized under the laws of the state of Florida and Mars Hill Crossroads, LLC is a corporation organized under the laws of the state of Florida.

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 defendants have not disclosed in their Notice of Removal whether they
have constituent members or partners and therefore will be required to do so.

IT IS, THEREFORE, ORDERED that on or before June 5, 2012, the
defendants shall file a response disclosing the names and citizenships, if any, of all
the constituent members or partners of the above referenced LLC's, and, for any
such constituent members or partners 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: May 15, 2012



Dennis L. Howell
United States Magistrate Judge

