

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:13-cv-276**

**FEDERAL INSURANCE COMPANY,** )  
 )  
 **Plaintiff,** )  
 )  
 vs. )  
 )  
 **OMEGA FLEX, INC., RB’S GAS, INC.,** )  
 **SI ENTERPRISES, INC., McNUTT** )  
 **SERVICES GROUP, INC., S. FOX** )  
 **ELECTRIC, LLC,** )  
 )  
 **Defendants.** )  
 \_\_\_\_\_ )

**ORDER**

**THIS MATTER** is before the Court *sua sponte* to ascertain subject matter jurisdiction. Although not stated in the Plaintiff’s Amended Complaint, it appears that the Plaintiff is contending that there is jurisdiction in this Court based upon diversity jurisdiction.

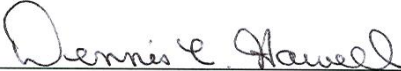
Courts have an affirmative duty to question subject matter jurisdiction even when the parties have not done so. Interstate Petroleum Corp. v. Morgan, 249 F.3d 215 (4<sup>th</sup> Cir. 2001); Plyer v. Moore, 129 F.3d 728, 732 n.6 (4th Cir. 1997), *certiorari denied* 524 U.S. 945, 118 S.Ct. 2359, 141 L.Ed.2d 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 Defendant, S. Fox Electric, LLC, has not disclosed whether it has constituent members or partners and therefore will be required to do so.

### **ORDER**

**IT IS, THEREFORE, ORDERED** that on or before **July 14, 2014**, the Defendant, S. Fox Electric, LLC, shall file a response disclosing the names and citizenships, if any, of all the constituent members or partners of S. Fox Electric, LLC 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: June 23, 2014

  
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Dennis L. Howell  
United States Magistrate Judge

