

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:14-cv-321**

**DEBRA BEVERLY & ALTON** )  
**BEVERLY,** )  
 )  
 **Plaintiffs,** )  
 )  
**vs.** )  
 )  
**SUGAR MOUNTAIN RESORT, INC. &** )  
**SUGAR MOUNTAIN SKI RESORT,** )  
**LLC,** )  
 )  
 **Defendants.** )  
\_\_\_\_\_ )

**ORDER**

**THIS MATTER** is before the Court *sua sponte* to ascertain subject matter jurisdiction. The Plaintiffs have filed their Complaint in this Court alleging jurisdiction arises based upon diversity jurisdiction (#1). In the Complaint, Plaintiffs allege that Defendant Sugar Mountain Ski Resort, LLC is a limited liability company formed under the laws of the state of North Carolina having its principal place of business in Avery County, North Carolina.

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 Sugar Mountain Ski Resort, LLC has not disclosed, in its Answer, whether or not the limited liability company has constitute members or partners and their citizenships and therefore will be required to do so.

### **ORDER**

**IT IS, THEREFORE, ORDERED** that on or before **February 8, 2015**, the Defendant Sugar Mountain Ski Resort, LLC shall file a response disclosing the names and citizenships, if any, of all the constituent members or partners of Sugar Mountain Ski Resort, 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: January 12, 2015



Dennis L. Howell  
United States Magistrate Judge

