

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

PAUL MILLER,

Plaintiff,

Case No. 3:11-CV-430

Judge Thomas M. Rose

-v-

**TRANSFREIGHT, LLC and
BRETT PROPERTIES NO. 1, LLC,**

Defendants.

**ORDER REQUIRING TRANSFREIGHT, LLC AND BRETT PROPERTIES
NO. 1, LLC TO INFORM THE COURT NOT LATER THAN MARCH 30,
2012 AS TO WHETHER THEY ARE CORPORATIONS OR
UNINCORPORATED ENTITIES AND, IF EITHER ARE
UNINCORPORATED ENTITIES, THE CITIZENSHIP OF EACH
PARTNER OR MEMBER**

Two Motions To Dismiss are pending in this matter. However, the Court is unable to determine if it has the power to adjudicate them.

The Defendants in this matter are Limited Liability Companies (“LLCs”), and subject matter jurisdiction is based upon diversity of citizenship. Thus, for diversity of citizenship to exist, Miller’s citizenship must be diverse from that of the Defendant LLCs’

Miller pleads that Transfreight, LLC is a Delaware corporation duly authorized to transact business in Ohio.¹ (First Amended Complaint ¶ 2.) Miller also pleads that Brett Properties No. 1 LLC is the registered property owner of the location in Ohio where the events that form the basis of Miller’s First Amended Complaint occurred. Finally, Miller pleads that he is a resident of Tennessee.

¹The Court notes that an LLC and a corporation are different business forms.

“The general rule is that all unincorporated entities - of which a limited liability company is one - have the citizenship of each partner or member.” *Delay v. Rosenthal Collins Group, LLC*, 585 F.3d 1003, 1005 (6th Cir. 2009). Thus, without confirming whether Transfreight LLC and Brett Properties No. 1 LLC are unincorporated entities, and, if so, the citizenship of each partner or member, the Court cannot confirm that it has subject matter jurisdiction to proceed.

Therefore, Transfreight LLC and Brett Properties No. 1 LLC are given until not later than March 30, 2012, to inform the Court whether they are corporations or unincorporated entities, and, if either are unincorporated entities, the citizenship of each partner or member.

DONE and ORDERED in Dayton, Ohio this Twenty-Third day of March, 2012.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record