

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

SHARRON E. NALLS,

Plaintiff,

-v-

GARDEN ALIVE, INC., et al.,

Defendants.

Case No. 3:12-CV-221

Judge Thomas M. Rose

**ORDER REQUIRING SPRING HILL NURSERIES LLC TO INFORM THE
COURT NOT LATER THAN JULY 30, 2012 AS TO WHETHER IT IS A
CORPORATION OR UNINCORPORATED ENTITY AND, IF IT IS AN
UNINCORPORATED ENTITY, THE CITIZENSHIP OF EACH PARTNER
OR MEMBER**

The Defendants in this matter have petitioned this Court for removal of this matter from the Court of Common Pleas of Preble County, Ohio. (Doc. #1.) However, the Court is unable to determine if it has the power to adjudicate this matter.

The Defendants in this matter are Gardens Alive, Inc. and Spring Hill Nurseries LLC and federal subject matter jurisdiction is based upon diversity of citizenship. For diversity of citizenship to exist, the citizenship of the Plaintiff must be diverse from that of the Defendants.

The Defendants plead that Gardens Alive is a Delaware corporation with its principal place of business in Lawrenceburg, Indiana. They also plead that Spring Hill Nurseries LLC is a Delaware corporation with its principal place of business in Lawrenceburg, Indiana. However, the Court is unable to determine from the pleadings whether Spring Hill Nurseries is a limited liability company (“LLC”) or a corporation.

“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 Spring Hill Nurseries LLC is an unincorporated entity, and, if so, the citizenship of each partner or member, the Court cannot confirm that it has subject matter jurisdiction to proceed.

Therefore, Spring Hill Nurseries LLC is given until not later than July 30, 2012, to inform the Court whether it is a corporation or unincorporated entity, and, if it is an unincorporated entity, the citizenship of each partner or member.

DONE and **ORDERED** in Dayton, Ohio this Sixth Day of July, 2012.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record