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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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CUSTOM LIGHTING SERVICES, LLC  
d/b/a BLACK & MCDONALD; B&M  
ENERGY & INFRASTRUCTURE, LLC  
d/b/a KK&L ADMINISTRATION,

Plaintiffs,

v.

JAMES BLEAK,

Defendant.

MEMORANDUM DECISION AND  
ORDER REMANDING CASE

Case No. 2:19-CV-300 TS

District Judge Ted Stewart

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This action was removed to this Court on the basis of diversity jurisdiction on May 2, 2019. Having reviewed the Notice of Removal and the underlying Complaint, the Court concludes that Defendant has failed to demonstrate diversity. Therefore, remand is required.

Under 28 U.S.C. § 1441 and 28 U.S.C. § 1332(a), the parties must be diverse for federal jurisdiction and removability. “For diversity purposes, a limited liability company ‘takes the citizenship of all its members.’”<sup>1</sup> As the party invoking the Court’s jurisdiction, Defendant bears the burden of proving diversity.<sup>2</sup> Further, “all doubts are to be resolved against removal.”<sup>3</sup>

In his Notice of Removal, Defendant recognizes that diversity must be determined by the citizenship of the members of the Plaintiff LLCs. However, Defendant fails to identify the members of the LLCs and, accordingly, fails to demonstrate their citizenship. Defendant states

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<sup>1</sup> *Spring Creek Expl. & Prod. Co., LLC v. Hess Bakken Inv., II, LLC*, 887 F.3d 1003, 1014 (10th Cir. 2018) (quoting *Siloam Springs Hotel, L.L.C. v. Century Sur. Co.*, 781 F.3d 1233, 1234 (10th Cir. 2015)).

<sup>2</sup> *Penteco Corp. v. Union Gas Sys., Inc.*, 929 F.2d 1519, 1521 (10th Cir. 1991).

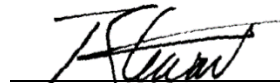
<sup>3</sup> *Fajen v. Found. Reserve Ins. Co., Inc.*, 683 F.2d 331, 333 (10th Cir. 1982).

that he conducted public record searches for Defendants, but those searches “did not return any specific residential information.”<sup>4</sup> This is woefully inadequate to establish diversity and since Defendant bears the burden of demonstrating diversity, remand is appropriate.

The Clerk of the Court is directed to remand this matter to the Third Judicial District Court, State of Utah and close this case forthwith.

DATED this 6<sup>th</sup> day of May, 2019.

BY THE COURT:



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Ted Stewart  
United States District Judge

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<sup>4</sup> Docket No. 2 ¶¶ 10, 12.