

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

GENERATION CLEAN FUELS, LLC,
a Delaware limited liability
company,

Plaintiff,

v.

Case No: 2:14-cv-283-FtM-29DNF

VETERANS CAPITAL CORP., a
Florida corporation,

Defendant.

ORDER

This matter comes before the Court on review of the Complaint (Doc. #1) filed on May 22, 2014.¹ Subject-matter jurisdiction is premised on the presence of diversity of jurisdiction between the parties. (Id., ¶ 7.) This requires complete diversity of citizenship, and that the matter in controversy exceed the sum or value of \$75,000, exclusive of interest and costs. 28 U.S.C. § 1332(a); Morrison v. Allstate Indem. Co., 228 F.3d 1255, 1261 (11th Cir. 2000).

Plaintiff Generation Clean Fuels, LLC identifies the members of its limited liability company pursuant to Rolling Greens MHP, L.P. v. Comcast SCH Holdings L.L.C., 374 F.3d 1020 (11th Cir.

¹ If the Court determines "at any time" that it lacks subject-matter jurisdiction, the Court must dismiss the case. Fed. R. Civ. P. 12(h)(3).

2004), however the citizenship of the members is not provided. Plaintiff alleges that one member is a limited liability company whose members are "residents" of Illinois, and that the remaining individual members are "residents" of Illinois and Wisconsin. (Doc. #1, ¶¶ 2-5.) "In order to be a citizen of a State within the meaning of the diversity statute, a natural person must both be a citizen of the United States and be domiciled within the State." Newman-Green, Inc. v. Alfonzo-Larrain, 490 U.S. 826, 828 (1989). Pleading residency is not the equivalent of pleading domicile. Molinos Valle Del Cibao, C. por A. v. Lama, 633 F.3d 1330, 1341 (11th Cir. 2011); Corporate Mgmt. Advisors, Inc. v. Artjen Complexus, Inc., 561 F.3d 1294, 1297 (11th Cir. 2009); Taylor v. Appleton, 30 F.3d 1365, 1367 (11th Cir. 1994). "A person's domicile is the place of his true, fixed, and permanent home and principal establishment, and to which he has the intention of returning whenever he is absent therefrom." McCormick v. Aderholt, 293 F.3d 1254, 1257-58 (11th Cir. 2002)(internal quotation marks and citations omitted).

The Court is otherwise satisfied as to the amount in controversy, and with regard to the citizenship of defendant corporation. Plaintiff however has failed to properly allege the citizenship of its members, and therefore no diversity of jurisdiction is alleged. Plaintiff will be provided an opportunity

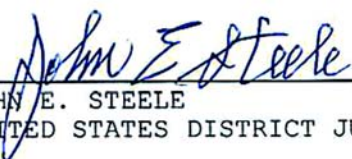
to state the presence of federal jurisdiction pursuant to 28 U.S.C. § 1653.

Accordingly, it is now

ORDERED:

The Complaint (Doc. #1) is dismissed for lack of subject-matter jurisdiction without prejudice to filing an Amended Complaint within **SEVEN (7) DAYS** of this Order.

DONE AND ORDERED at Fort Myers, Florida, this 28th day of May, 2014.



JOHN E. STEELE
UNITED STATES DISTRICT JUDGE

Copies:
Counsel of record