

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DAVID SCOTT HASTINGS,

Plaintiff,

v.

Case No: 2:18-cv-485-FtM-38MRM

WILBUR SMITH LAW FIRM,
JOSEPH VIACAVA, SAWYER
SMITH, RYAN DOYLE and GERALD
OLIVIO,

Defendants.

ORDER¹

This matter comes before the Court on Plaintiff David Scott Hastings' Response to Order to Show Cause on diversity jurisdiction. ([Doc. 10](#)). After review, the Court finds that Hastings has not sufficiently established diversity jurisdiction under [28 U.S.C. § 1332](#).

Section 1332 requires that the amount in controversy exceed \$75,000 and the parties be citizens of different states. *Id.* If a plaintiff asserts diversity jurisdiction, it is his burden to prove that diversity exists. [King v. Cessna Aircraft Co., 505 F.3d 1160, 1171 \(11th Cir. 2007\)](#). Here, the Court issued an Order requiring Hastings to identify the citizenship of all parties because of the ambiguous nature of Hastings' Complaint. ([Doc.](#)

¹ Disclaimer: Documents filed in CM/ECF may contain hyperlinks to other documents or websites. These hyperlinks are provided only for users' convenience. Users are cautioned that hyperlinked documents in CM/ECF are subject to PACER fees. By allowing hyperlinks to other websites, this Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their websites. Likewise, the Court has no agreements with any of these third parties or their websites. The Court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the Court.

6). Hastings responded and identified Defendant Wilbur Smith Law Firm as a “limited liability corporation.” (Doc. 10). According to Hastings, Wilbur Smith Law Firm has its primary business address in Fort Myers, Florida and its registered agent lives in Fort Myers, Florida. (Doc. 10). But that is not the test to determine citizenship for a limited liability company. A limited liability company “is a citizen of any state of which a member of the company is a citizen.” *Rolling Greens MHP, L.P. v. Comcast SCH Holdings L.L.C.*, 374 F.3d 1020, 1022 (11th Cir. 2004). Hastings did not identify Wilbur Smith Law Firm’s members or their place of citizenship. As such, Hastings failed to meet his burden. Because Hastings was already given an opportunity to fix the jurisdictional deficiencies in his Complaint, the Court will dismiss this action without prejudice.

Accordingly, it is now

ORDERED:

- (1) This action is **DISMISSED without prejudice.**
- (2) The Clerk of Court is **DIRECTED** to enter judgment accordingly, terminate all pending motions and deadlines, and close the file.

DONE and **ORDERED** in Fort Myers, Florida this 10th day of August 2018.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record