

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

VOLUNTEER AG PRODUCTS
LLC

Plaintiff,

v.

Case No.: 2:23-cv-38-SPC-KCD

SOUTHEASTERN PRODUCE
LLC; UTOPIA FARMS LLC; CH
ROBINSON COMPANY, INC. t/a
ROBINSON FRESH; BRIAN H.
TURNER; BRIAN J. SANDERS;
and RONALD W. CARTER, each
individually,

Defendants.

_____ /

ORDER¹

Before the Court is Plaintiff Volunteer AG Products, LLC's ("Volunteer") complaint. ([Doc. 1](#)). This is a contract dispute that has been filed in federal court based on diversity jurisdiction. ([Doc. 1 at 18](#)).

Federal courts have original jurisdiction over cases with complete diversity and an amount in controversy over \$75,000, exclusive of interest and costs. [28 U.S.C. § 1332\(a\)](#). Here, Volunteer has not adequately alleged

¹ Disclaimer: Papers hyperlinked to CM/ECF may be subject to PACER fees. By using hyperlinks, the Court does not endorse, recommend, approve, or guarantee any third parties or their services or products, nor does it have any agreements with them. The Court is not responsible for a hyperlink's functionality, and a failed hyperlink does not affect this Order.

diversity of citizenship. Volunteer identifies all parties to be diverse but provides insufficient information about the citizenship of itself; Southeastern Produce, LLC; Utopia Farms, LLC; Brian Turner; Brian Sanders; and Ronald Carter.

Volunteer; Southeastern Produce, LLC; and Utopia Farms, LLC are identified as limited liability companies. ([Doc. 1 at 5](#), 8). A limited liability company is a citizen of every state in which one of its members is domiciled. [Rolling Greens MHP, L.P. v. Comcast SCH Holdings L.L.C.](#), 374 F.3d 1020 (11th Cir. 2004); [McCormick v. Aderholt](#), 293 F.3d 1254, 1257-58 (11th Cir. 2002) (citizenship is determined by “domicile,” or “the place of his true, fixed, and permanent home and principal establishment . . . to which he has the intention of returning whenever he is absent therefrom”). Because of this, it is not enough to allege the citizenship of *some* members of the limited liability company. [Rolling Greens MHP, L.P.](#), 374 F.3d at 1022 (“To sufficiently allege the citizenships of these unincorporated business entities, a party must list the citizenships of *all* the members of the limited liability company”) (emphasis added). Each member of the LLC must be diverse from the opposing party for federal diversity jurisdiction to exist. [Flintlock Constr. Servs., LLC v. Well-Come Holdings, LLC](#), 710 F.3d 1221, 1224-25 (11th Cir. 2013). Because nothing is alleged about where Volunteer; Southeastern Produce, LLC; or

Utopia Farms, LLC's member(s) are domiciled, Volunteer has not adequately pled diversity of citizenship.

Brian Turner, Brian Sanders, and Ronald Carter are named as individual defendants. Only their residency has been pled. ([Doc. 1 at 7](#), 8, 10). Residency is not equivalent to citizenship. *Taylor v. Appleton*, 30 F.3d 1365, 1367 (11th Cir. 1994) ("Citizenship, not residence, is the key fact that must be alleged in the complaint to establish diversity for a natural person"). Again, a person's citizenship is determined by his "domicile," or "the place of his true, fixed, and permanent home and principal establishment . . . to which he has the intention of returning whenever he is absent therefrom." *McCormick*, 293 F.3d at 1257-58. The citizenship of Brian Turner, Brian Sanders, and Ronald Carter has not been pled.

In conclusion, Volunteer has not met its burden of establishing this Court's subject matter jurisdiction over this action.

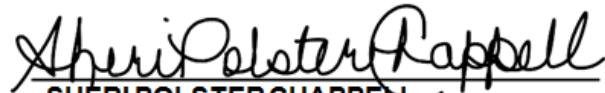
Accordingly, it is now

ORDERED:

1. The Complaint ([Doc. 1](#)) is **DISMISSED without prejudice** for lack of subject matter jurisdiction.
2. Plaintiff may file an amended complaint by February 6, 2023.

Failure to do so will cause the Court to close this case without further notice.

DONE and **ORDERED** in Fort Myers, Florida on January 23, 2023.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record