

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SPRINGS WINDOW
FASHIONS, LLC,

Plaintiff,

v.

DALPHIS, LLC; D&S, INC.,
CHARLES F. DUFFLEY, and
BENJAMIN D. MORRIS,

Defendants.

ORDER

11-cv-226-bbc

This is a civil action for injunctive and monetary relief brought by plaintiff Springs Window Fashions, LLC, for breach of contract, breach of guarantee, common law unfair competition, defamation and product disparagement. Defendants Dalphis, LLC, D&S, Inc., Charles F. Duffley and Benjamin D. Morris have moved to dismiss for various reasons and have also filed a notice of suggestion of bankruptcy as to defendant Dalphis, LLC.

Before any of these matters may be addressed, it is necessary to take up the question of subject matter jurisdiction. Plaintiff asserts jurisdiction under 28 U.S.C. § 1332(a)(1) but has not established that the parties are of diverse citizenship. (The amount in controversy is alleged to be in excess of \$75,000 and that allegation seems incontrovertible in light of the other allegations in the complaint.) It will need to advise the court of the citizenship of each

member of defendant Dalphis, LLC. Identifying them only as “citizens of states other than South Carolina” is not sufficient. The court cannot assure itself that each member has a citizenship distinct from that of plaintiff without knowing the facts underlying plaintiff’s assertion that each member of the LLC is not a citizen of South Carolina. Belleville Catering Co. v. Champaign Market Place, L.L.C., 350 F.3d 691, 693 (7th Cir. 2003) (“inquiring whether the court has jurisdiction is a federal judge's first duty in every case”).

In addition, plaintiff should determine whether the individual defendants are *citizens* of Tennessee and Mississippi and not simply residents. Moreover, it should advise the court whether its owner, Springs Industries, Inc. is both incorporated in *and* headquartered in South Carolina. 28 U.S.C. § 1332(c)(1) (corporation is citizen of state in which it is incorporated and in which it has its principal place of business).

ORDER

IT IS ORDERED that plaintiff Springs Window Fashions, LLC, may have until July 12, 2011, in which to respond to this order.

Entered this 29th day of June, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge