

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

DARLENE PAPAGEORGIOU,

Plaintiff,

v.

Case No. 6:23-cv-1838-RBD-DCI

WILLIAM GACIOCH; SPECIALTY  
MOTORCAR CENTER, LLC; and  
GEICO CASUALTY COMPANY,

Defendants.

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**ORDER**

On *sua sponte* review of the Notice of Removal ([Doc. 1](#)), Defendants have failed to establish diversity jurisdiction.

Federal courts have the “power to decide only certain types of cases” – including cases brought based on diversity jurisdiction. *See Morrison v. Allstate Indem. Co.*, [228 F.3d 1255, 1260–61](#) (11th Cir. 2000). In such cases, courts must ensure that the citizenship of the parties is completely diverse and the amount in controversy exceeds \$75,000. *See* [28 U.S.C. § 1332](#).

Defendants’ Notice of Removal is deficient in several ways. First, Defendants assert that Plaintiff is a “resident of Seminole County, Florida and, thus, a Florida citizen.” ([Doc. 1](#), ¶ 3.) Defendants also assert that Defendant Gacioch is “a New York resident, and, thus a citizen of the State of New York.”

(*Id.*) Citizenship of an individual is determined by domicile, which is residence plus an intent to remain; residence alone is not enough. See *Miss. Band of Choctaw Indians v. Holyfield*, [490 U.S. 30, 48](#) (1989); *Taylor v. Appleton*, [30 F.3d 1365, 1367](#) (11th Cir. 1994). So Defendants must provide evidence of Plaintiff's and Gacioch's intent to remain in their states of residence – often demonstrated by the homestead exemption, voter registration, occupational licenses, and the like – to establish citizenship. See *Furnari v. Nuance Commc'ns, Inc.*, No. 6:11-cv-1119, [2011 WL 13298737](#), at \*3 (M.D. Fla. Sept. 20, 2011); *Akkan v. Nationstar Mortg., LLC*, No. 1:16-cv-1999, [2016 WL 11260335](#), at \*1 (N.D. Ga. Nov. 16, 2016), *adopted*, [2017 WL 382616](#) (N.D. Ga. Jan. 27, 2017).

Second, Defendants assert that Defendant Specialty Motorcar Center, LLC “is a New York corporation with its principal place of business in New York.” ([Doc. 1](#), ¶ 3.) Citizenship of a limited liability company (“LLC”) is determined by the citizenship of each of its members, not its state of incorporation and principal place of business. See *Rolling Greens MHP, LP v. Comcast SCH Holdings LLC*, [374 F.3d 1020, 1022](#) (11th Cir. 2004). So Defendants must identify each of the LLC's members and their citizenship for the Court to determine whether there is complete diversity. See *TMH Med. Servs., LLC v. Nat'l Union Fire Ins. Co.*, No. 6:17-cv-920, [2017 WL 8941180](#), at \*1 (M.D. Fla. June 22, 2017).

Third, Defendants assert that Defendant GEICO Casualty Company is a

“Foreign Profit Corporation with its principal place of business in Maryland.” (Doc. 1, ¶ 3.) Citizenship of a corporation is determined by both its state of incorporation and the state of its principal place of business. *See Life of the S. Ins. Co. v. Carzell*, 851 F.3d 1341, 1345 (11th Cir. 2017). So stating GEICO’s status as a foreign corporation is insufficient; Defendants must also provide its state of incorporation for citizenship purposes.

Fourth, the Notice of Removal asserts that the amount in controversy exceeds \$75,000 without explanation in support of any particular figure, relying only on Plaintiff’s allegation of nonspecific permanent injuries in the Complaint and her admission to seeking more than \$75,000. (Doc. 1, ¶ 5.) But an admission, without underlying facts, “provides no factual basis to support the jurisdictional amount (that is, provides no basis for the damages claimed).” *Parrish v. Sears, Roebuck & Co.*, No. 8:10-cv-1684, 2010 WL 3042230, at \*1 (M.D. Fla. July 30, 2010). Here, without more, such as a detailed settlement demand, an estimate of medical bills, or a specific description of the nature of the injuries, the Court is skeptical that the amount in controversy requirement is met. *Cf. Bele v. 21st Century Centennial Ins. Co.*, No. 6:15-cv-526, 2015 WL 3875491, at \*2–3 (M.D. Fla. May 15, 2015). So Defendants must provide evidence substantiating the requisite amount. *See* 28 U.S.C. § 1446(c)(2)(B); *Dart Cherokee Basin Operating Co. v. Owens*, 574 U.S. 81, 89 (2014); *Dudley v. Eli Lilly & Co.*, 778 F.3d 909, 912–13 (11th Cir. 2014).


Accordingly, by **Friday, November 10, 2023**, Defendants are **ORDERED TO SHOW CAUSE** by written response why this case should not be remanded due to deficient jurisdictional allegations. The response must be supported by evidence, which may be in the form of an affidavit or declaration under penalty of perjury. *See Travaglio v. Am. Express Co.*, [735 F.3d 1266, 1270](#) (11th Cir. 2013). Failure to timely and adequately respond may result in this action being remanded.

It is very common, regrettably, for the Court to dismiss sua sponte direct filed diversity actions, or issue show cause orders in removal cases in discharge of its obligation to ensure the existence of subject matter jurisdiction. Usually, counsel filing or removing the action fails to properly research and understand, and thus allege, the criteria for demonstrating some aspect of the citizenship of one of the parties or the amount in controversy to allow the Court to determine whether subject matter jurisdiction exists. This “screening for subject matter jurisdiction” is time consuming and would be avoided if counsel would undertake the most rudimentary research to on the basis for diversity jurisdiction and properly demonstrate it before either filing or removing the claim. This Notice of Removal sets a new low bar for inadequacy in that it fails to properly establish the citizenship of **EVERY SINGLE PARTY** to the action and, fails to properly demonstrate the amount in controversy. So, in addition to addressing the jurisdictional deficiencies, removal counsel is **ORDERED TO SHOW CAUSE**

why sanctions should not be imposed for failure to discharge its Rule 11 obligations in ascertaining and demonstrating the basis for diversity jurisdiction with the resultant waste of judicial resources.

**DONE AND ORDERED** in Chambers in Orlando, Florida, on October 27, 2023.



  
ROY B. DALTON, JR.  
United States District Judge