



## Mark Edward Partners LLC v. Cosgrove et al

2020 | Cited 0 times | S.D. New York | May 18, 2020

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

-----x MARK EDWARD PARTNERS LLC, Plaintiff, -v-  
No. 20 CV 3766-LTS WILLIAM P. COSGROVE, LOCKTON INSURANCE BROKERS, INC.,  
Defendants. -----x

ORDER WHEREAS, this action was commenced by the filing of a Complaint on May 15, 2020, and WHEREAS, the Court has reviewed such Complaint to ascertain the basis for assertion of subject matter jurisdiction in this court; and WHEREAS, such Complaint asserts that the Court has jurisdiction based on diversity of citizenship (28 U.S.C. § 1332), but has failed to allege the citizenship of the members of the Plaintiff LLC; and WHEREAS, for purposes of diversity jurisdiction, the citizenship of an artificial business entity other than a corporation is determined by reference to the citizenship of its members, see *C.T. Carden v. Arkoma Associates*, 494 U.S. 185 (1990); *E.R. Squibb & Sons v. Accident & Cas. Ins. Co.*, 160 F.3d 925 (2d Cir. 1998); *Keith v. Black Diamond Advisors, Inc.*, 48 F. Supp. 2d 326 (S.D.N.Y. 1999); and WHEREAS, "subject matter jurisdiction is an unwaivable sine qua non for the exercise of federal judicial power," *E.R. Squibb & Sons v. Accident & Cas. Ins. Co.*, 160 F.3d 925, 929 (2d Cir. 1998) (citation omitted), and Rule 12(h)(3) of the Federal Rules of Civil Procedure provides that "[i]f the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action;" it is hereby ORDERED, that plaintiff shall, no later than June 2, 2020, file and serve a Supplement to the Complaint containing allegations sufficient to demonstrate a basis for subject matter jurisdiction in this Court or otherwise show cause in writing as to why this case should not be dismissed for lack of subject matter jurisdiction. SO ORDERED.  
Dated: New York, New York May 18, 2020

/s/ Laura Taylor Swain LAURA TAYLOR SWAIN United States District Judge

