

FILED  
2020 MAY 1 PM 1:42  
CLERK  
U.S. DISTRICT COURT

---

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

---

Michael Yates, et al.,

Plaintiffs,

v.

Traeger Pellet Grills,

Defendant.

**ORDER DISMISSING COMPLAINT  
WITHOUT PREJUDICE**

Case No. 2:19-cv-00723-BSJ

The Honorable Bruce S. Jenkins

**INTRODUCTION**

Presently before the court is Defendant Traeger Grills, LLC's, "Motion to Dismiss and/or Strike Portions of First Amended Complaint."<sup>1</sup> Plaintiffs Michael Yates and Norman L. Jones filed an Opposition.<sup>2</sup> Defendant filed a Reply.<sup>3</sup> The court heard oral argument on April 30, 2020. Having considered the parties' briefing, oral argument, and the applicable law, the court will DISMISS Plaintiffs' First Amended Complaint without prejudice.

**DISCUSSION**

The court will dismiss Plaintiffs' First Amended Complaint because they fail to allege sufficient facts to establish this court has subject-matter jurisdiction. The court "must, sua sponte, satisfy itself of its power to adjudicate in every case and at every stage of the proceedings." *State Farm Mut. Auto. Ins. Co. v. Narvaez*, 149 F.3d 1269, 1270–71 (10th Cir. 1998) (quoting *Tafoya v. U.S. Dep't of Justice*, 748 F.2d 1389, 1390 (10th Cir. 1984)). Plaintiffs allege the court has

---

<sup>1</sup> ECF No. 32.

<sup>2</sup> ECF No. 40.

<sup>3</sup> ECF No. 45.

jurisdiction under 28 U.S.C. § 1332(d), a portion of the diversity-jurisdiction statute addressing class actions. No class has been certified here. Accordingly, this suggestion is premature in the sense that there is no class presently before the court.

Next, Plaintiffs allege claims on their own behalf, in addition to the yet-to-be-defined class, but do not allege any basis for the court's jurisdiction over those claims. Nor do Plaintiffs allege facts sufficient to establish the court has subject-matter jurisdiction over their individual claims. Plaintiffs presumably believe the court has subject-matter jurisdiction over their individual claims pursuant to the portion of the diversity-jurisdiction statute governing individual claims, 28 U.S.C. § 1332(a).<sup>4</sup> "When jurisdiction is premised on diversity of citizenship under 28 U.S.C. § 1332(a) ... each plaintiff must be diverse from each defendant to have what is known as complete diversity." *Ravenswood Inv. Co., L.P. v. Avalon Corr. Servs.*, 651 F.3d 1219, 1223 (10th Cir. 2011). The court is unable to make any meaningful determination in this regard because Plaintiffs do not allege adequate facts to establish Defendant's citizenship. "Relying on guidance from the Supreme Court, [the Tenth Circuit] clarified that in determining the citizenship of an unincorporated association [including an LLC] for purposes of diversity, federal courts must include all the entities' members." *Mgmt. Nominees, Inc. v. Alderney Investments, LLC*, 813 F.3d 1321, 1324 (10th Cir. 2016) (quotation omitted). Regarding Defendant's citizenship, Plaintiffs allege only that Defendant "is a Delaware limited liability company headquartered in Salt Lake City, Utah."<sup>5</sup> Plaintiffs do not allege any facts regarding the citizenship of Defendant's members. Also, Plaintiffs could not supply this information during oral argument. Without this information,

---

<sup>4</sup> Plaintiffs assert no federal cause of action. *See* 28 U.S.C. §1331.

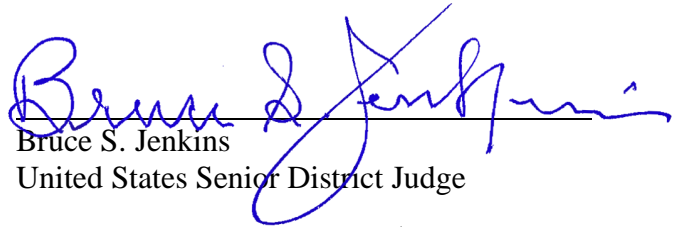
<sup>5</sup> Compl. ¶ 37.

the court is unable to determine whether it has jurisdiction over the only claims currently before it. Accordingly, the First Amended Complaint will be dismissed without prejudice. Plaintiffs may file an amended complaint within twenty days of this order.

**ORDER**

Based on the foregoing, the court DISMISSES Plaintiffs' First Amended Complaint without prejudice. (ECF No. 25). Plaintiffs may file an amended complaint within twenty days setting forth the necessary allegations establishing this court has subject-matter jurisdiction.

DATED this 1st day of May 2020.

  
Bruce S. Jenkins  
United States Senior District Judge