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ELEVENTH CIRCUIT REAFFIRMS NEED TO VERIFY LLC MEMBERS' CITIZENSHIP TO ESTABLISH DIVERSITY JURISDICTION

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By: Paul A. Avron

Sound Around, Inc. v. O'Donnell, No. 23-12479, 2025 WL 2887175 (11th Cir. Oct. 10, 2025) (per curiam) (unpublished), is a recent example of a case where neither the parties nor the trial court verified the plaintiff's allegation that the parties were completely diverse to ensure the court possessed diversity jurisdiction under 28 U.S.C. § 1332(a).

After litigation through summary judgment before the trial court, an appeal to the Eleventh Circuit which resulted in a jurisdictional remand, the trial court determined the parties were not completely diverse. The matter went back before the Eleventh Circuit again, this time as a challenge to the trial court's determination on remand that it lacked jurisdiction. The Eleventh Circuit affirmed.

The trial and appellate courts based their jurisdictional rulings on the fact that one of the defendants was a limited liability company (LLC), and one of its members was a citizen of the same state as the plaintiff meaning complete diversity between the parties was lacking. When LLCs are litigants, as in this case, examining whether the parties are completely diverse takes on added importance since an LLC "is a citizen of any state of which a member of the company is a citizen."

Stated differently, the parties must take into account the citizenship of each LLC member to determine if there is complete diversity of the parties at or near commencement of the case as that is when diversity is determined. At the end of its opinion, the Eleventh Circuit quoted a prior decision stating that "[i]t is in everyone's best interest, both the litigants' and the courts', to verify that diversity jurisdiction exists before proceeding with the case."

The parties' and the trial court's failure to confirm complete diversity existed at the beginning of the litigation cost much in terms of time and legal fees, as well as wasting of scarce judicial resources of both the trial and appellate courts. The teaching point of this case is that, in cases based on diversity jurisdiction, especially cases involving LLCs, efforts should be undertaken up front to confirm complete diversity to ensure the trial court possesses subject matter jurisdiction to adjudicate the merits of the case.

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Paul A. Avron