

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

HAYES HILL BAPTIST CHURCH)
and BRENDA HILL,)
individually and d/b/a)
Turner's ABC Learning)
Center,)
)
Plaintiffs,)
)
v.)
)
STONINGTON INSURANCE)
COMPANY,)
)
Defendant.)

CIVIL ACTION NO.
2:10cv135-MHT
(WO)

ORDER

The allegations of the notice of removal are insufficient to invoke this court's removal jurisdiction under 28 U.S.C.A. §§ 1332 (diversity of citizenship) and 1441 (removal). To invoke removal jurisdiction based on diversity, the notice of removal must distinctly and affirmatively allege each party's citizenship. McGovern v. American Airlines, Inc., 511 F. 2d 653, 654 (5th Cir. 1975) (per curiam). The allegations must show that the

citizenship of each plaintiff is different from that of each defendant. 28 U.S.C.A. § 1332; see also 2 James Wm. Moore, et al., Moore's Federal Practice ¶ 8.03[5][b] at 8-10 (3d ed. 1998).

The notice of removal is insufficient because it does not indicate the citizenship of plaintiff Hayes Hill Baptist Church. If the entity is a corporation, then the notice must allege the citizenship of both the State of incorporation and where the corporation has its principal place of business. 28 U.S.C.A. § 1332(c)(2); American Motorist Insur. Co. v. American Employers' Insur. Co., 600 F.2d 15, 16 & n. 1 (5th Cir. 1979) (per curiam). If the entity is a partnership, the notice must indicate the citizenship of the individual partners, both general and limited. Carden v. Arkoma Associates, 494 U.S. 185, 110 S.Ct. 1015 (1990). If the entity is an unincorporated association, the notice must indicate the citizenship of each and every one of its members. Xaros v. U.S. Fidelity and Guar. Co., 820 F.2d 1176, 1181 (11th Cir.

1987). If the entity is a limited liability company, the notice must allege "[t]he citizenships of all members of the limited liability company." Rolling Greens MHP, L.P. v. Comcast SCH Holdings L.L.C., 374 F.3d 1020, 1022 (11 Cir. 2004). And if the entity consists of several entities, the notice must reflect the citizenship, or citizenships, of each and every entity based on the nature of that entity.

It is therefore the ORDER, JUDGMENT, and DECREE of the court that the defendant has until March 19, 2010, to amend the notice of removal to allege jurisdiction sufficiently, see 28 U.S.C.A. § 1653; otherwise this lawsuit shall be remanded to state court.

DONE, this the 2nd day of March, 2010.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE