

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS**

KENNETH KLAYBOR)

independent administrator of the Estate)
of Matthew Klaybor, deceased,)

Plaintiff,)

v.)

) **Case No.: 14-95 JPG/DGW**

FLOWERS BAKING COMPANY OF)
BATESVILLE, LLC, an Arkansas corporation,)
et al.,)

Defendants.

MEMORANDUM AND ORDER

In light of Seventh Circuit Court of Appeals admonitions, *see Foster v. Hill*, 497 F.3d 695, 696-97 (7th Cir. 2007), the Court has undertaken a rigorous initial review of pleadings to ensure that jurisdiction has been properly pled. The Court has noted the following defect in the jurisdictional allegations of the amended complaint (Doc. 8) filed by plaintiff Kenneth Klaybor, *independent administrator of the Estate of Matthew Klaybor, deceased*:

Failure to allege the citizenship of decedent. A complaint asserting diversity jurisdiction must allege the citizenship of individual parties. 28 U.S.C. § 1332(a)(1). Where a suit is brought on behalf of the estate of a decedent, the citizenship of the legal representative of the estate shall be deemed to be that of the decedent. 28 U.S.C. § 1332(c)(2); *see Gustafson v. zumBrunnen*, 546 F.3d 398, 400-01 (7th Cir. 2008); *Konradi v. United States*, 919 F.2d 1207, 1214 (7th Cir. 1990). The plaintiffs' complaint does not allege the decedent's citizenship prior to his death.

The Court hereby **ORDERS** that plaintiff Kenneth Klaybor, *independent administrator of the Estate of Matthew Klaybor, deceased* shall have up to and including , March 5, 2014 to amend the faulty pleading to correct the jurisdictional defect. *See* 28 U.S.C. § 1653. Failure to amend the faulty pleading may result in dismissal of this case for

lack of subject matter jurisdiction. Amendment of the faulty pleading to reflect an adequate basis for subject matter jurisdiction will satisfy this order. Plaintiff Kenneth Klaybor, *independent administrator of the Estate of Matthew Klaybor, deceased* is directed to consult Local Rule 15.1 regarding amended pleadings and need not seek leave of Court to file such amended pleading.

IT IS SO ORDERED.

DATED: February 26, 2014

s/J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE