

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

DOUGLAS R. WOOD, <i>individually and as</i>)	
<i>Personal Representative of estate of</i>)	
Stephen Ray Wood, <i>et al.</i>,)	
)	
Plaintiffs,)	
)	
v.)	CAUSE NO. 1:15-cv-00260-JVB-SLC
)	
UNITED OF OMAHA LIFE INSURANCE)	
COMPANY, <i>et al.</i>,)	
)	
Defendants.)	

OPINION AND ORDER

Before the Court are two motions filed by Defendant Northwestern Mutual Life Insurance Company (“Northwestern”) on December 13, 2016—a Motion for Leave to Amend Answer & Affirmative Defenses to Plaintiffs’ Complaint for Damages (DE 56) and a Motion for Leave to File Third-Party Complaint in the Alternative (DE 57). The motions are timely filed. (See DE 51-1 at 4; DE 54). Plaintiffs have not filed a response to the motions, and their time to do so has now passed. Because Plaintiffs do not oppose the motions, and because the Court should “freely give leave when justice so requires,” Fed. R. Civ. P. 15(a)(2), these two motions will be granted.

In filing this suit in federal court, Plaintiffs allege that this Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332. As the party seeking to invoke federal diversity jurisdiction, Plaintiffs bear the burden of demonstrating that the requirement of complete diversity has been met.¹ *Chase v. Shop’n Save Warehouse Foods, Inc.*, 110 F.3d 424, 427 (7th Cir. 1997). In the

¹ Each party’s citizenship must be articulated as of “the time of the filing of the complaint,” rather than the date the claims are alleged to have arisen or some other time material to the lawsuit. *Multi-M Int’l, Inc. v. Paige*

Amended Complaint, Plaintiffs allege that Plaintiff Douglas R. Wood is a “resident” of Florida, that Plaintiff Gregory S. Wood is a “resident” of Kentucky, and that the Estate of Stephen Ray Wood is a “probate estate administered in Indiana.” (DE 40 ¶¶ 3-5; *see also* DE 1 ¶¶ 4-6).

Residency, however, is meaningless for purposes of diversity jurisdiction; an individual’s citizenship is determined by his domicile. *Dakuras v. Edwards*, 312 F.3d 256, 258 (7th Cir. 2002); *see Heinen v. Northrop Grumman Corp.*, 671 F.3d 669, 670 (7th Cir. 2012) (“[R]esidence may or may not demonstrate citizenship, which depends on domicile—that is to say, the state in which a person intends to live over the long run.” (citations omitted)); *Guar. Nat’l Title Co. v. J.E.G. Assocs.*, 101 F.3d 57, 58-59 (7th Cir. 1996) (explaining that statements concerning a party’s “residency” are not proper allegations of citizenship as required by 28 U.S.C. § 1332). Therefore, Plaintiffs must advise the Court of the domiciles of Plaintiffs Douglas R. Wood and Gregory S. Wood, which demonstrates their citizenship.

With respect to the Estate of Stephen Ray Wood, “the federal diversity statute treats the legal representative of a decedent’s estate . . . as a citizen of the same state as the decedent” *Gustafson v. zumBrunnen*, 546 F.3d 398, 400 (7th Cir. 2008) (citing 28 U.S.C. § 1332(c)(2)) (internal quotation marks omitted); *see also Hunter v. Amin*, 583 F.3d 486, 491-92 (7th Cir. 2009). Therefore, Plaintiffs must advise the Court of the domicile of Stephen Ray Wood at the time of his death, which demonstrates the citizenship of the Estate.

In sum, Northwestern’s Motion for Leave to Amend Answer & Affirmative Defenses to Plaintiffs’ Complaint for Damages (DE 56) is GRANTED; the Clerk is DIRECTED to show the Amended Answer and Affirmative Defenses to Plaintiffs’ Amended Complaint (DE 56-1) filed.

Med. Supply Co., 142 F.R.D. 150, 152 (N.D. Ill. 1992).

Northwestern's Motion for Leave to File Third-Party Complaint in the Alternative (DE 57) is also GRANTED; the Clerk is DIRECTED to show the Third-Party Complaint in the Alternative (DE 57-1) filed. Additionally, Plaintiffs are ORDERED to file on or before January 19, 2017, a supplemental statement concerning the citizenship of Plaintiffs for purposes of confirming that diversity jurisdiction exists.

SO ORDERED.

Entered this 4th day of January 2017.

/s/ Susan Collins
Susan Collins,
United States Magistrate Judge