

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

STEVEN LEON DAVIS, individually and as)
personal representative of the Estate of Mary)
Alice Davis, Deceased,)
Plaintiff,) 2:12-cv-00373-JMS-WGH
vs.)
WILLIAM RYAN SUTHERLAND, M.D., ASSO-)
CIATED PHYSICIANS & SURGEONS CLINIC,)
LLC d/b/a AP&S CLINIC, HIRISADARAHALLY)
NAGARAJA, M.D., AND UNION HOSPITAL,)
INC.,)
Defendants.)

ORDER

Plaintiff Steven Leon Davis, individually and as personal representative of the Estate of Mary Alice Davis, filed a Complaint for Damages on December 21, 2012 in which he asserts state law claims against Defendants William Ryan Sutherland, M.D. (“Dr. Sutherland”), Associated Physicians & Surgeons Clinic, LLC d/b/a AP&S Clinic (“Associated”), Hirisadarahally Nagaraja, M.D. (“Dr. Nagaraja”), and Union Hospital, Inc. (“Union”). [Dkt. 1.] Mr. Davis alleges that: (1) he is a resident of Illinois, [*id.* at 1, ¶ 1]; (2) Dr. Sutherland is a resident of Kentucky, [*id.* at 1, ¶ 2]; (3) Dr. Nagaraja is a resident of Indiana, [*id.*]; (4) Associated is a “domestic limited liability company with its principal place of business in Indiana,” [*id.*]; and (5) Union is a “domestic corporation with its principal place of business in Indiana,” [*id.*]. The Complaint is silent regarding the amount in controversy.

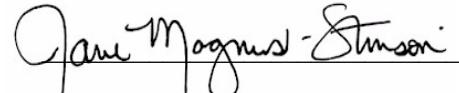
The Court must independently determine whether proper diversity among the parties exists. *Thomas v. Guardsmark, LLC*, 487 F.3d 531, 533 (7th Cir. 2007). The Court is not being hyper-technical: Counsel has a professional obligation to analyze subject-matter jurisdiction,

Heinen v. Northrop Grumman Corp., 671 F.3d 669 (7th Cir. 2012), and a federal court always has a responsibility to ensure that it has jurisdiction, *Hukic v. Aurora Loan Servs.*, 588 F.3d 420, 427 (7th Cir. 2009). Based on Mr. Davis' Complaint, the Court cannot determine whether it can exercise diversity jurisdiction over this case.

Specifically, Plaintiffs are reminded that: (1) an allegation of residency is inadequate to establish diversity jurisdiction, *McMahon v. Bunn-O-Matic Corp.*, 150 F.3d 651, 653 (7th Cir. 1998); (2) residency and citizenship are not the same, and it is the latter that matters for purposes of diversity, *Meyerson v. Harrah's East Chicago Casino*, 299 F.3d 616, 617 (7th Cir. 2002); (3) the legal representative of an estate of a decedent shall be deemed to be a citizen only of the same state as the decedent, 28 U.S.C. § 1332(c)(2), but it is still necessary to know the representative's state of citizenship if he also brings individual claims; (4) a corporation has two places of citizenship: where it is incorporated and where it has its principal place of business, *Smoot v. Mazda Motors of Am., Inc.*, 469 F.3d 675, 676 (7th Cir. 2006); (5) a limited liability company's citizenship includes every state of which any unit holder is a citizen, *Copeland v. Penske Logistics LLC*, 675 F.3d 1040, 1043 (7th Cir. 2012); (6) it is insufficient for a party to generically allege that another party is *not* a citizen of a state, *Guaranty Nat'l Title Co. v. J.E.G. Assocs.*, 101 F.3d 57, 59 (7th Cir. 1996); (7) the amount in controversy must exceed “\$75,000 *exclusive of interest and costs*,” 28 U.S.C. § 1332 (emphasis added); and (8) although a plaintiff may aggregate the amounts against defendants to satisfy the amount in controversy requirement if the defendants are jointly liable, a plaintiff must satisfy the amount in controversy requirement against each individual defendant if the defendants are severally liable, *LM Ins. Corp. v. Spaulding Enters.*, 533 F.3d 542, 548 (7th Cir. 2008).

The Court **ORDERS** Plaintiffs to file an Amended Complaint on or before **February 8, 2013**, which addresses the jurisdictional concerns noted above. Defendants need not respond to the Complaint, [dkt. 1], but rather shall timely respond to the Amended Complaint once it is filed.

01/03/2013



Hon. Jane Magnus-Stinson
United States District Court
Southern District of Indiana

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