

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

JOSEPH FRANCIS

CIVIL ACTION

VERSUS

NO. 12-343

TOKIO MARINE & NICHIDO FIRE
INSURANCE CO., LTD, ET AL.

SECTION "H"(4)

ORDER & REASONS

IT IS ORDERED that Plaintiff Joseph Francis's Motion to Remand is **DENIED**. Plaintiff argues that Defendants have not demonstrated complete diversity because when he tried to serve Defendant George Everett in Mississippi service was unsuccessful. Plaintiff's petition, however, states that Everett is a resident of Mississippi. (Doc. 1-1.) Courts determine diversity jurisdiction based on the face of the complaint. *See Amerson v. Am. Nat'l Ins. Co.*, 117 Fed. Appx. 360, 361 (5th Cir. 2004). In addition, Defendants have provided a sworn affidavit from George Everett stating that he is a resident of Mississippi. (Doc. 13-1.) "A court may consider information contained in an affidavit filed subsequent to the notice of removal to determine whether there is an adequate

basis for removal.” *Molina v. Wal-Mart Stores Tex., L.P.*, 535 F.Supp.2d 805, 807 (W.D.Tex. 2008) (citing *Willingham v. Morgan*, 395 U.S. 402, 408 n. 3 (1969)). Accordingly, Defendants have met their burden of showing that removal of this case was proper.

New Orleans, Louisiana, on this 1st day of May, 2012.



JANE TRICHE MILAZZO
UNITED STATES DISTRICT JUDGE