

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

GWENDOLYN C. GUM AND
JOHN N. GUM, JR.

CIVIL ACTION NO. 10-535-JJB-DLD

VERSUS

AUDUBON INSURANCE
COMPANY, ET AL.

ORDER

The court *sua sponte* notes the potential insufficiency of the defendant's allegation of the citizenship of the parties as follows;

1. _____ A party invoking diversity jurisdiction must allege the *citizenship* rather than mere residence of an individual. In addition, see [28 U.S.C. §1332\(c\)\(2\)](#) for infants, minors and an incompetent. The *citizenship* of _____ is not provided.
2. X A party invoking diversity jurisdiction must allege both the state of incorporation and principal place of business of each corporate party. See, e.g., [Illinois Central Gulf Railroad Co. v. Pargas, Inc., 706 F.2d 633 \(5th Cir. 1983\)](#). The principal place of business of defendant, **Audubon Insurance Company**, is not provided.¹
3. _____ A party invoking diversity jurisdiction must allege both the state of incorporation and principal place of business of each corporate party. See, e.g., [Illinois Central Gulf Railroad Co. v. Pargas, Inc., 706 F.2d 633 \(5th Cir. 1983\)](#). **Even when a liability insurer takes on its insured's citizenship under 28 U.S.C. § 1332(c)(1), its own citizenship still is considered in determining whether complete diversity exists.** The state of incorporation and principal place of business of _____ is not provided.²
4. _____ A party invoking diversity jurisdiction must properly allege the citizenship of a limited liability company. For a limited liability company, case law suggests that the citizenship of a limited liability company for diversity purposes is

¹The phrase "principal place of business" in §1332(c)(1) refers to the place where a corporation's high level officers direct, control, and coordinate the corporation's activities, *i.e.*, its "nerve center," which will typically be found at its corporate headquarters. [The Hertz Corporation v. Melinda Friend, et al., 559 U. S. _____ \(2010\)](#)

²See footnote 1.

determined by the citizenship of its members. See [Harvey v. Grey Wolf Drilling Co.](#), 542 F.3d 1077, 1080 (5th Cir. 2008). The citizenship of _____ is not provided.

5. _____ A party invoking diversity jurisdiction must properly allege the citizenship of a general partnership and a limited liability partnership. For a general partnership, case law suggests that a partnership has the citizenship of each one of its partners. See [International Paper Co. v. Denkmann Assoc.](#), 116 F.3d 134, 137 (5th Cir. 1997). A limited liability partnership or L.L.P. also has the citizenship of each one of its partners, both general and limited. See [Carden v. Arkoma Associates](#), 494 U.S. 185, 110 S.Ct. 1014, 108 L.Ed.2d 157 (1990). The citizenship of _____ is not provided.
6. _____ A party invoking diversity jurisdiction must properly allege the citizenship of Underwriters at Lloyd's, London. The citizenship of Underwriters at Lloyd's, London has not been provided. See [Corfield v. Dallas Glen Hills LP](#), 355 F.3d 853 (5th Cir. 2003), *cert. denied*, 541 U.S. 1073, 124 S.Ct. 2421, 158 L.Ed.2d 983 (2004).
7. _____ A party invoking diversity jurisdiction must properly allege the citizenship of a sole proprietorship. A business entity cannot be both a corporation and sole proprietorship; therefore the court seeks to clarify the identity of plaintiff/defendant. Case law suggests that the citizenship of a sole proprietorship for diversity purposes is determined by the citizenship of its members and/or owners. See [Linder Enterprises v. Martinringle](#), 2007 WL 3095382 (N.D. Tex.). The citizenship of _____ is not provided.

Accordingly,

IT IS ORDERED, pursuant to [28 U.S.C. §1653](#), that, on or before **October 1, 2010**, defendant **Belfor USA Group, Inc.** shall file an amended notice of removal providing the citizenship of defendant, **Audubon Insurance Company**, by setting forth all citizenship particulars required to sustain federal diversity jurisdiction.

Signed in Baton Rouge, Louisiana, on September 23, 2010.



MAGISTRATE JUDGE DOCIA L. DALBY