

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

KANSAS CITY SOUTHERN RAILWAY
COMPANY

CIVIL ACTION

VERSUS

NO. 10-770-JJB-DLD

JAMES MARK GUIDRY, ET AL

ORDER

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

1. X 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 **James Mark Guidry** 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 state of incorporation and principal place of business of **Kansas City Southern Railway Company** is not provided.¹

3. 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). **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 **Western World Insurance Company** is not provided.²

4. A party invoking diversity jurisdiction must properly allege the citizenship of a limited liability company. The citizenship of a limited liability company for

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.

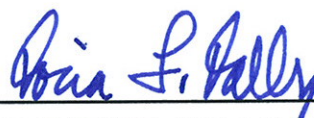
diversity purposes is determined by the citizenship of its members. See Harvey v. Grey Wolf Drilling Co., 542 F.3d 1077, 1080 (5th Cir. 2008). The citizenship of _____ is not provided.

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 **January 25, 2011**, the plaintiff shall file an amended complaint providing the citizenship of plaintiff, **Kansas City Southern Railway Company**, and defendants, **James Mark Guidry** and **Western World Insurance Company**, by setting forth all citizenship particulars required to sustain federal diversity jurisdiction.

Signed in Baton Rouge, Louisiana, on January 14, 2011.



MAGISTRATE JUDGE DOCIA L. DALBY