

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

JOSHUA BOYETTE, ET AL

CIVIL ACTION

VERSUS

NO. 12-380-JJB-DLD

COMMERCE PROTECTIVE INSURANCE
COMPANY, ET AL

ORDER

The court *sua sponte* notes the potential insufficiency of the plaintiffs' 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 state of incorporation of **Commerce Protective Insurance Company** and **Harvest Haul, Inc.** 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. The citizenship of a limited liability company for diversity purposes is determined by the citizenship of **its members**. The citizenship of **all of the members** of a limited liability company must be properly alleged. In the event a member of a limited liability company 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. [Hertz Corp. v. Friend, 130 S.Ct. 1181, 175 L.Ed.2d 1029 \(2010\)](#)

²See footnote 1.

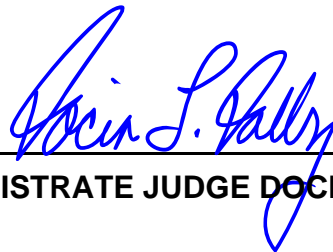
another limited liability company, the members of that limited liability company must be properly alleged as well. is See [Harvey v. Grey Wolf Drilling Co., 542 F.3d 1077, 1080 \(5th Cir. 2008\)](#). The complete citizenship of _____ is not provided.

5. _____ A party invoking diversity jurisdiction must properly allege the citizenship of a general partnership, a limited liability partnership, and a limited partnership. A general partnership, a limited liability partnership, and a limited partnership has the citizenship of each one of its partners. Both the general partner and limited partner must be alleged to establish citizenship of a limited partnership. See [International Paper Co. v. Denkmann Assoc., 116 F.3d 134, 137 \(5th Cir. 1997\)](#); [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, 2012**, the plaintiffs shall file an amended complaint providing the citizenship of defendants, **Commerce Protective Insurance Company** and **Harvest Haul, Inc.**, by setting forth all citizenship particulars required to sustain federal diversity jurisdiction.

Signed in Baton Rouge, Louisiana, on September 24, 2012.



MAGISTRATE JUDGE DOCIA L. DALBY