

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

ROSHAUNDA JACKSON, ET AL

CIVIL ACTION

VERSUS

NUMBER 12-581-SDD-SCR

SYNGENTA CROP PROTECTION, LLC,
ET AL

ORDER TO AMEND NOTICE OF REMOVAL

Defendant Syngenta Crop Protection, LLC removed this case from state court asserting subject matter jurisdiction under 28 U.S.C. § 1332(a), diversity of citizenship. In its Notice of Removal the defendant alleged the plaintiffs are citizens of Louisiana, "Syngenta was and continues to be a Delaware corporation with its principal place of business in North Carolina," and Monsanto Company is a Delaware company with its principal place of business in Missouri.¹

When jurisdiction depends on citizenship, the citizenship of each party must be distinctly and affirmatively alleged in accordance with § 1332(a) and (c).² Under § 1332(c)(1) a corporation is deemed to be a citizen of every state in which it is

¹ Record document number 1, ¶ 10. In the Notice of Removal, "Syngenta" refers to Syngenta Crop Protection, LLC. Defendant alleged that the remaining, nondiverse defendants were improperly joined to defeat diversity jurisdiction. *Id.*, ¶ 13.

² *Stafford v. Mobil Oil Corp.*, 945 F.2d 803, 804 (5th Cir. 1991), *citing*, *McGovern v. American Airlines, Inc.*, 511 F.2d 653, 654 (5th Cir. 1975)(quoting 2A Moore's Federal Practice ¶ 8.10, at 1662); *Mullins v. TestAmerica, Inc.*, 564 F.3d 386, 397 (5th Cir. 2009).

incorporated, and of the state in which it has its principal place of business. For purposes of diversity, the citizenship of a limited liability company is determined by considering the citizenship of all its members.³ The state where a limited liability company is organized and where it has its principal place of business does not determine its citizenship for the purpose of § 1332. Thus, to properly allege the citizenship of a limited liability company, the party asserting jurisdiction must identify each of the entity's members and the citizenship of each member in accordance with the requirements of § 1332(a) and (c).⁴

Defendant Syngenta's jurisdictional allegations are not sufficient to establish diversity jurisdiction. Syngenta alleged jurisdiction in its Notice of Removal as if it is a corporation. However, its name indicates that it is not a corporation; rather, the "LLC" in its name indicates that it is a limited liability company. If it is a limited liability company, it did not correctly allege its citizenship in accordance with § 1332 and *Harvey v. Grey Wolf Drilling Co.*

³ *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008); see *Carden v. Arkoma Associates*, 494 U.S. 185, 110 S.Ct. 1015, 1021 (1990).

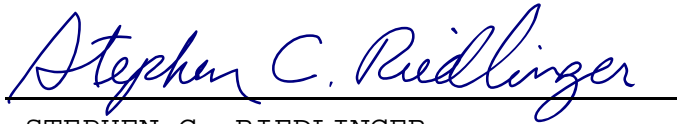
⁴ The same requirement applies to any member of a limited liability company which is also a limited liability company or a partnership. *Turner Bros. Crane and Rigging, LLC v. Kingboard Chemical Holding Ltd.*, 2007 WL 2848154 (M.D.La. Sept. 24, 2007)(when partners or members are themselves entities or associations, citizenship must be traced through however many layers of members or partners there are); *Mullins, supra*.

Therefore;

IT IS ORDERED that removing defendant Syngenta Crop Protection, LLC shall have 14 days to file an Amended Notice of Removal which clarifies its organizational form, and if it is a limited liability company properly alleges its citizenship.⁵ Alternatively, the defendant may file an amended answer which does the same thing.

Failure to comply with this order may result in the case being remanded without further notice for lack of subject matter jurisdiction.

Baton Rouge, Louisiana, June 4, 2013.



STEPHEN C. RIEDLINGER
UNITED STATES MAGISTRATE JUDGE

⁵ Neither the defendant's answer, record document number 4, nor its Rule 7.1, Fed.R.Civ.P., disclosure statement, record document number 5, provide the needed information.