

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

BETTY WILSON

VERSUS

WAL-MART STORES, INC., ET AL

CIVIL ACTION

NO. 13-411-SDD-RLB

ORDER

The court *sua sponte* notes the potential insufficiency of the plaintiff'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 the defendant, **Wal-Mart Stores, 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. X 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

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.

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 another limited liability company, the members of that limited liability company must be properly alleged as well. See [Harvey v. Grey Wolf Drilling Co., 542 F.3d 1077, 1080 \(5th Cir. 2008\)](#). The complete citizenship of defendant, **Wal-Mart Louisiana, LLC.**, 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 **September 18, 2013**, the plaintiff shall file an amended complaint providing the citizenship of defendants, Wal-Mart Stores, Ind. and Wal-Mart Louisiana, LLC, by setting forth all citizenship particulars required to sustain federal diversity jurisdiction.

Signed in Baton Rouge, Louisiana, on September 3, 2013.



RICHARD L. BOURGEOIS, JR.
UNITED STATES MAGISTRATE JUDGE