

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**

**MARVIN FULFORD AND  
RENA FULFORD**

**CIVIL ACTION**

**VERSUS**

**NO. 16-16-BAJ-EWD**

**CLIMBTEK, INC., ET AL.**

**ORDER**

Before the Court is a Motion to Intervene<sup>1</sup> and a Motion to Substitute Comprehensive Complaint of Intervention,<sup>2</sup> both filed by the State of Louisiana, Office of the Governor, Division of Administration, Office of Risk Management (“ORM”). However, before the Court can make a determination regarding the Motion to Intervene, the Court must determine whether it has subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1332, diversity jurisdiction, as alleged in the Original Complaint.<sup>3</sup>

Although Plaintiffs allege that the Court has diversity jurisdiction over this case, the Original Complaint, the Amended Complaint,<sup>4</sup> and the Second Amended Complaint<sup>5</sup> do not adequately allege the citizenship of the parties. Consequently, the Plaintiffs were ordered to substitute the Second Amending Complaint<sup>6</sup> with a comprehensive proposed pleading properly setting forth the citizenship of the parties.<sup>7</sup> Plaintiffs subsequently filed a Motion to Substitute Second Amending Complaint,<sup>8</sup> but the motion was denied by the Court for failure to properly

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<sup>1</sup> R. Doc. 22.

<sup>2</sup> R. Doc. 30.

<sup>3</sup> R. Doc. 1 at 1.

<sup>4</sup> R. Doc. 3.

<sup>5</sup> R. Doc. 11.

<sup>6</sup> R. Doc. 11.

<sup>7</sup> R. Doc. 29.

<sup>8</sup> R. Doc. 32.

allege the citizenship of the parties.<sup>9</sup> At the request of the parties, the Court held a telephone conference on November 18, 2016 to discuss the status of this matter.<sup>10</sup> During the conference, counsel for the parties both agreed to submit a statement of citizenship regarding their respective clients to show that the Court has subject matter jurisdiction over this case under 28 U.S.C. § 1332.<sup>11</sup>

On November 22, 2016, Plaintiffs filed a Statement of Citizenship, alleging that Marvin and Rena Fulford are both domiciliaries of Louisiana.<sup>12</sup> Michigan Ladder Company, LLC filed its Statement of Citizenship on November 23, 2016, alleging the following:

Michigan Ladder Company, LLC is a Michigan limited liability company with its principal place of business in Ypsilanti, Michigan. All members of the limited liability company are residents/citizens of the State of Michigan. The members are: (1) Amherst Fund, IL LLC, a Michigan limited liability company, with its primary place of business located in the State of Michigan, and with a single member, who is a resident and citizen of the State of Michigan; and (2) Harrison Industries, LLC, with its primary place of business located in the State of Michigan and with a single member, who is a resident and citizen of the State of Michigan.

The managing member, sometimes referred to as the President of Michigan Ladder Company, LLC, is Thomas Harrison, a citizen and resident of the State of Michigan.<sup>13</sup>

While the citizenship of member Thomas Harrison has been adequately alleged, the citizenship of the member limited liability companies, Amherst Fund, IL, LLC and Harrison Industries, LLC, has not been adequately alleged in the Statement of Citizenship. For purposes of diversity, the citizenship of a limited liability company is determined by considering the citizenship of all its members. *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008). To properly

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<sup>9</sup> R. Doc. 34.

<sup>10</sup> R. Doc. 38.

<sup>11</sup> R. Doc. 38.

<sup>12</sup> R. Doc. 38.

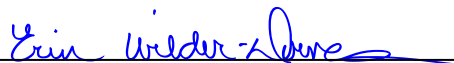
<sup>13</sup> R. Doc. 40 at 1.

allege the citizenship of a limited liability company, a party must identify each of the members of a limited liability company and the citizenship of each member in accordance with the requirements of § 1332(a) and (c). The same requirement applies to any member of a limited liability company which is also a limited liability company. See, Turner Bros. Crane and Rigging, LLC v. Kingboard Chemical Holding Ltd., 2007 WL 2848154, at \*4-5 (M.D. La. Sept. 24, 2007) (“when partners or members are themselves entities or associations, the citizenship must be traced through however many layers of members or partners there may be, and failure to do [sic] can result in dismissal for want of jurisdiction.” (quotation and citations omitted)).

Accordingly,

**IT IS HEREBY ORDERED** that the Statement of Citizenship<sup>14</sup> filed by Michigan Ladder Company, LLC shall be **STRICKEN** from the record. Michigan Ladder Company, LLC shall have seven (7) days from the date of this Order to file an amended Statement of Citizenship that adequately alleges the citizenship of Michigan Ladder Company, LLC.

Signed in Baton Rouge, Louisiana, on November 30, 2016.



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**ERIN WILDER-DOOMES**  
**UNITED STATES MAGISTRATE JUDGE**

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<sup>14</sup> R. Doc. 40.