

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

RAY MADERE

CIVIL ACTION

VERSUS

NO. 17-606-JJB-RLB

ZURICH AMERICAN INSURANCE
COMPANY, ET AL.

ORDER

The court *sua sponte* notes the potential insufficiency of the removing defendants' allegation of the citizenship of the parties as follows:

1. A party invoking diversity jurisdiction must allege the *citizenship* of an individual. An individual's citizenship is determined by his or her domicile, rather than residence. *See Preston v. Tenet Healthsystem Memorial Medical Center, Inc.*, 485 F.3d 793, 799 (5th Cir. 2007). In addition, *see* 28 U.S.C. §1332(c)(2), for infants, the deceased and the incompetent. The *citizenship* of _____ is not provided.
2. A party invoking diversity jurisdiction must allege both the state of incorporation and principal place of business¹ 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 **Oakley Trucking, Inc. and Protective Insurance Company** is not provided.
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

¹ The 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.

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 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 _____ 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 (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)*.
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, No. 07-1733, 2007 WL 3095382 (N.D. Tex., Oct. 22, 2007)*. The citizenship of _____ is not provided.

Accordingly,

IT IS ORDERED, pursuant to 28 U.S.C. §1653, that, on or before **October 16, 2017**, the removing defendants shall file an amended notice of removal providing the citizenship of defendants **Oakley Trucking, Inc. and Protective Insurance Company**, by setting forth all citizenship particulars required to sustain federal diversity jurisdiction.

Signed in Baton Rouge, Louisiana, on October 3, 2017.



RICHARD L. BOURGEOIS, JR.
UNITED STATES MAGISTRATE JUDGE