

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

WINN-DIXIE STORES, INC., ET AL.

CIVIL ACTION

VERSUS

NO. 17-643-JWD-RLB

H&R BATON ROUGE, LLC, 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* 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. X 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 principal place of business of plaintiff **Winn-Dixie Stores, Inc.** 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
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

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.

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 plaintiff **Winn-Dixie Montgomery Leasing, LLC** and defendant **H&R Baton Rouge, 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 \(1990\)](#). 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 plaintiff/removing defendant shall file an amended complaint/notice of removal providing the citizenship of plaintiffs **Winn-Dixie Stores, Inc. and Winn-Dixie Montgomery Leasing, LLC** and defendant **H&R Baton Rouge, LLC**, 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