

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

STEVEN MILES

CIVIL ACTION

VERSUS

NO. 17-943-BAJ-EWD

WOERNER DEVELOPMENT,
INC. AND ABC INSURANCE COMPANY**NOTICE AND ORDER**

On October 6, 2017, defendant, Woerner Development, Inc. (“Defendant”) removed this suit on the basis of diversity jurisdiction pursuant to 28 U.S.C. § 1332.¹

In the Notice of Removal, Defendant alleges it is a “foreign company incorporated in the state of Alabama with its principal place of business at 818 N. McKenzie Street, Foley, AL 36536.”² This is a sufficient allegation regarding the citizenship of Defendant. See, *Getty Oil, Div. of Texaco v. Ins. Co. of North America*, 841 F.2d 1254, 1259 (5th Cir. 1988) (In diversity cases involving corporations, “allegations of citizenship must set forth the state of incorporation as well as the principal place of business of each corporation.”). However, with respect to plaintiff, Steven Miles (“Plaintiff”), Defendant alleges only that Plaintiff is a Louisiana resident.³ This is **not** a sufficient allegation regarding Plaintiff’s citizenship. See, *Mas v. Perry*, 489 F.2d 1396, 1399 (5th Cir. 1974) (“For diversity purposes, citizenship means domicile, mere residence in the State is not sufficient.”).⁴

Accordingly,

¹ R. Doc. 1.

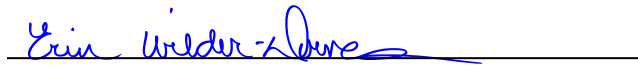
² R. Doc. 1, ¶ 4. Defendant does not set forth the citizenship of ABC Insurance. For purposes of determining whether there is diversity subject matter jurisdiction, the citizenship of a defendant which has been sued under a fictitious name may be disregarded. 28 U.S.C. § 1441(b)(1).

³ R. Doc. 1, ¶¶ 2, 3, & 15(A)(1).

⁴ Per Plaintiff’s First Amended Petition for Damages, Plaintiff alleged that that “his damages exceed the jurisdictional limit of \$75,000.00, exclusive of interest and costs.” R. Doc. 1-5, ¶ 11.

IT IS HEREBY ORDERED that defendant, Woerner Development, Inc., shall file a Motion to Substitute the Notice of Removal with a proposed comprehensive Notice of Removal that alleges the citizenship of plaintiff, Steven Miles, by setting out Mr. Miles' domicile. Defendant shall have seven (7) days from the date of this Notice and Order to file the Motion to Substitute. No further leave of court is necessary to timely file the Motion to Substitute.

Signed in Baton Rouge, Louisiana, on October 12, 2017.



ERIN WILDER-DOOMES
UNITED STATES MAGISTRATE JUDGE