

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

**EXCEL MAINTENANCE
SERVICES, INC. ET AL.**

CIVIL ACTION

NO. 17-1070-JJB-EWD

VERSUS

QUALITY CARRIERS, INC. ET AL.

ORDER

Before the Court is a Notice of Removal filed by defendant, Quality Carriers, Inc. (“QC”).¹ QC removed this matter from state court on October 12, 2017, asserting that this Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332.² The Notice of Removal makes the following allegations regarding the citizenship of the parties:

VIII.

The controversy between Petitioner and the Defendant herein is a controversy between citizens of different states.

(a) Petitioner, at the time of the commencement of said action and at all times thereafter through and including the present time, is a corporation authorized to do and is doing business in the State of Louisiana.

(b) Quality Carriers, Inc. is a corporation incorporated under the laws of the State of Illinois with its principal place of business in Tampa, State of Florida and was not at the time of commencement of said action or at any time thereafter a citizen of the State of Louisiana pursuant to the United States Supreme Court’s holding in *Hertz Corp. v. Friend*, 559 U.S. 77 (2010).

IX.

The diversity of citizenship requirement is satisfied in this action because Petitioner and Defendant, Quality Carriers, Inc., are citizens

¹ R. Doc. 1.

² Id. at ¶ VI.

of different states or foreign states.³

Proper information regarding the citizenship of all parties is necessary to establish the Court's diversity jurisdiction, as well as to make the determination required under 28 U.S.C. § 1441 regarding whether the case was properly removed to this Court. In the Notice of Removal, citizenship has not been adequately alleged. While the citizenship of QC has been adequately alleged,⁴ the citizenship of the plaintiff, Excel Maintenance Services, Inc., and defendant, Kendel Brewel, has not been adequately alleged.⁵ As an initial matter, the Notice of Removal contains no allegation regarding the citizenship of Kendel Brewel. The Fifth Circuit has explained that, "For diversity purposes, citizenship means domicile; mere residence in the State is not sufficient." *Mas v. Perry*, 489 F.2d 1396, 1399 (5th Cir. 1974) (citations omitted). With respect to Excel Maintenance Services, Inc., the Fifth Circuit has held that, "For diversity jurisdiction purposes, a corporation is a citizen of the state in which it was incorporated and the state in which it has its principal place of business." *Getty Oil, Div. of Texaco v. Ins. Co. of North America*, 841 F.2d 1254, 1259 (5th Cir. 1988) (citing 28 U.S.C. § 1332(c)). Thus, to properly allege the citizenship of a corporation, a party must identify the place of incorporation and the corporation's principal place of business in accordance with the requirements of 28 U.S.C. § 1332(c).

³ Id. at ¶¶ VIII and IX.

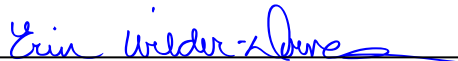
⁴ The Fifth Circuit has held that, "For diversity jurisdiction purposes, a corporation is a citizen of the state in which it was incorporated and the state in which it has its principal place of business." *Getty Oil, Div. of Texaco v. Ins. Co. of North America*, 841 F.2d 1254, 1259 (5th Cir. 1988) (citing 28 U.S.C. § 1332(c)).

⁵ Although the Notice of Removal contains no allegation regarding the citizenship of defendant, ABC Insurance Company, 28 U.S.C. § 1441 provides that, "In determining whether a civil action is removable on the basis of the jurisdiction under section 1332(a) of this title, the citizenship of defendants sued under fictitious names shall be disregarded." 28 U.S.C. § 1441(b)(1).

Accordingly,

IT IS HEREBY ORDERED that Quality Carriers, Inc. shall have seven (7) days from the date of this Order to file an amended Notice of Removal without further leave of Court properly setting forth the citizenship particulars required to establish that the Court has diversity jurisdiction over the case.

Signed in Baton Rouge, Louisiana, on October 13, 2017.



ERIN WILDER-DOOMES
UNITED STATES MAGISTRATE JUDGE