

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

JAMES LIGHTELL

CIVIL ACTION

VERSUS

NO. 18-125-JWD-RLB

JOSHUA ATKINSON, ET AL.

ORDER

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

1. X 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 defendant **Joshua Atkinson** 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 state of incorporation and principal place of business of defendant **Government Employees Insurance Company** is not provided. In addition, the principal place of business of defendant **National Casualty 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

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)

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 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 defendant **M & D Trucking, LLC** is not provided.²

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 **April 30, 2018**, the removing defendant shall file an amended notice of removal providing the citizenship of defendants **Joshua Atkinson, M & D Trucking, LLC, National Casualty Company and**

²See footnote 1.

² The Court notes that the notice of removal states that M & D Trucking, LLC is no longer in business.

Government Employees Insurance Company, by setting forth all citizenship particulars required to sustain federal diversity jurisdiction.

Signed in Baton Rouge, Louisiana, on April 16, 2018.



RICHARD L. BOURGEOIS, JR.
UNITED STATES MAGISTRATE JUDGE