

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

**MARTHA EDWINA WRIGHT
COLVIN, ET AL.**

*** CIVIL ACTION NO. 10-1376**

VERSUS

*** JUDGE ROBERT G. JAMES**

**PETROHAWK ENERGY
CORPORATION, ET AL.**

*** MAG. JUDGE KAREN L. HAYES**

ORDER

Before the court is a motion for joinder of party [doc. # 22] filed by plaintiffs. The motion seeks to join KCS Resources, LLC, as a defendant in this matter. The motion is unopposed. Considering the lack of opposition, the motion for joinder [doc. # 22] is hereby GRANTED.

Accordingly, within the next 14 days from the date of this order, plaintiffs shall cause KCS Resources, LLC to be served with copies of the complaint and this order pursuant to Federal Rule of Civil Procedure 4. Within the same period, plaintiffs shall file proof of service with the court. Fed.R.Civ.P. 4(1).

Within 20 days after service, the newly joined defendant shall file a responsive pleading which at a minimum: identifies its members and their citizenship for purposes of diversity jurisdiction,¹ admits or denies the allegations in the complaint, and sets forth any other defenses

¹ Plaintiffs allege that KCS Resources, LLC was formed under the laws of the State of Delaware. Delaware appears to treat LLCs as unincorporated associations for purposes of diversity jurisdiction. See e.g., *Rolling Greens MHP, L.P. v. Comcast SCH Holdings L.L.C.*, 374 F.3d 1020, 1021 (11th Cir. 2004); *E-Beam Services, Inc. v. XL Foam LLC*, 2008 WL 4890136 (D. N.J. 11/13/2008). When a limited liability company or LLC is an unincorporated association, then its citizenship, for purposes of diversity, is determined by the citizenship of all

or claims required to be asserted herein. If KCS Resources, LLC fails to so comply or if its joinder would destroy subject matter jurisdiction, then the court will consider available options, including, but not limited to 1) striking KCS Resources, LLC as a defendant and proceeding to judgment with the remaining parties, if permissible, or 2) remanding the matter to state court.

IT IS SO ORDERED.

THUS DONE AND SIGNED in chambers, at Monroe, Louisiana, this 4th day of April 2011.


KAREN L. HAYES
U. S. MAGISTRATE JUDGE

of its members. *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008). **Moreover, for each member of an LLC that is itself an LLC or partnership, its members and their citizenship must be identified and traced up the chain of ownership until one reaches only individuals and/or corporations.** *Lewis v. Allied Bronze, LLC*, 2007 WL 1299251 (E.D. N.Y. May 2, 2007); *see also*, *Mullins v. TestAmerica, Inc.*, 564 F.3d 386, 397 (5th Cir. 2009) (suggesting that to discern the citizenship of an LLC, the court must trace citizenship “down the various organizational layers”); *Feaster v. Grey Wolf Drilling Co.*, 2007 WL 3146363, *1 (W.D. La. Oct. 25, 2007) (“citizenship must be traced through however many layers of members or partners there may be”).