

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

DAVID LETSINGER

CIVIL ACTION NO. 12-cv-2444

VERSUS

JUDGE FOOTE

MICHAEL STENNETTE, ET AL

MAGISTRATE JUDGE HORNSBY

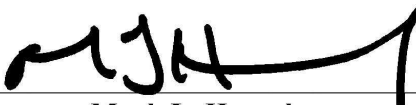
MEMORANDUM ORDER

This case was removed from state court in September 2012. Federal Rule of Civil Procedure 4(m) requires service be completed within 120 days of filing. Despite the passage of two years, there is no evidence of service on defendants Michael Stennette or Thomas Fuels Lubricants & Chemicals, Inc. The claims against those two defendants will be subject to dismissal, without further notice, if Plaintiff does not file evidence of service on those two defendants by **October 14, 2014** or obtain, based on a showing of good cause to excuse the lengthy delay, an extension of time to complete service.

Zurich removed the case, so it has the burden of establishing diversity of citizenship. Zurich set forth what appear to be appropriate allegations with regard to its citizenship and that of the other corporate defendant. It describes Plaintiff as a “resident” of Louisiana, but it is domicile rather than mere residency that decides citizenship for diversity purposes, and “[i]t is well established that an allegation of residency does not satisfy the requirement of an allegation of citizenship.” Great Plains Trust Co. v. Morgan Stanley, 313 F.3d 305, 310 n. 2 (5th Cir. 2002), quoting Strain v. Harrelson Rubber Co., 742 F.2d 888 (5th Cir. 1984).

Plaintiff described himself in his state court petition as both a resident and “domiciliary” of Louisiana, so the citizenship of Plaintiff is adequately reflected in the record. Defendant Stennette, however, is described in both the state court petition and notice of removal as merely a “resident” of Texas. If Zurich wishes to ensure that it has met its burden of establishing subject-matter jurisdiction, it should file an amended notice of removal and allege the citizenship/domicile of individual parties such as Stennette or ensure that Stennette includes an express allegation of such in his answer.

THUS DONE AND SIGNED in Shreveport, Louisiana, this 1st day of October, 2014.



Mark L. Hornsby
U.S. Magistrate Judge