

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT DIVISION

NIELS FOSTER

CIVIL ACTION NO. 17-cv-1075

VERSUS

JUDGE HICKS

HOWMEDICA OSTEONICS CORP., ET AL

MAGISTRATE JUDGE HORNSBY

**MEMORANDUM ORDER**

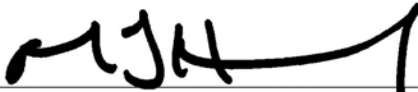
Niels Foster filed this civil action based on an assertion of diversity jurisdiction, which places the burden on Foster to allege specific facts that show that there is complete diversity of citizenship. Foster's complaint appears to properly allege the citizenship of the corporate defendants, but Foster describes himself as a "resident" of Louisiana. Complaint, ¶¶ 2 and 6.

A person may be a resident of multiple states, but he has only one domicile at a time. Domicile is based on residence in a state and an intention to remain there indefinitely. Coury v. Prot, 85 F.3d 244, 250-51 (5th Cir. 1996). 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).

Foster, to ensure that he has met his burden of establishing diversity jurisdiction, should file an amended complaint to specifically allege the state in which he has his domicile/citizenship. Foster may file an amended complaint without leave of court if he does

so within the time permitted by Fed. R. Civ. Pro. 15(a). If he lets that time elapse, he will need to file a motion for leave to amend and comply with the relevant rules.

THUS DONE AND SIGNED in Shreveport, Louisiana, this 28th day of August, 2017.



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Mark L. Hornsby  
U.S. Magistrate Judge