

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

CHARLES RIGGS

CIVIL ACTION NO. 17-cv-1691

VERSUS

CHIEF JUDGE HICKS

JACKSON NATIONAL LIFE INSURANCE
CO., ET AL

MAGISTRATE JUDGE HORNSBY

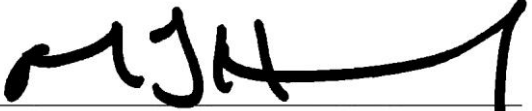
MEMORANDUM

Charles Riggs (“Plaintiff”) filed this civil action against Jackson National Life Insurance Company and insurance agent Alva Clary. Jackson National removed the case based on an assertion of diversity jurisdiction. Jackson National acknowledged that Plaintiff and Ms. Clary appear to both be Louisiana citizens, which would destroy diversity, but Jackson National asserted that the citizenship of Ms. Clary should be ignored pursuant to the improper joinder doctrine, which is outlined in Smallwood v. Illinois Central RR Co., 385 F.3d 568 (5th Cir. 2004). Plaintiff has not yet challenged the improper joinder plea, but the court is obligated to determine subject matter jurisdiction, including whether a party is improperly joined, on its own initiative. Gasch v. Hartford Acc & Indem. Co. 491 F.3rd 278, 281 (5th Cir. 2007).

If Plaintiff contests the assertion that Ms. Clary was improperly joined, he must file a motion to remand, supported by a memorandum, by **February 5, 2018** and explain why there is a reasonable basis to predict that state law would allow Plaintiff to recover against Ms. Clary. If Plaintiff timely files a motion to remand, it will be noticed for briefing so

that Jackson National can respond and attempt to meet its burden on the improper joinder issue. If Plaintiff does not timely file a motion to remand and challenge the improper joinder plea, the court will consider Plaintiff to concede the point, Ms. Clary will be dismissed, and the case will proceed toward a Scheduling Order.

THUS DONE AND SIGNED in Shreveport, Louisiana, this 4th day of January, 2018.



Mark L. Hornsby
U.S. Magistrate Judge