

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

PATRICIA PARKER	CIVIL ACTION NO. 21-cv-3327
VERSUS	JUDGE ELIZABETH E. FOOTE
PETSMART, LLC, ET AL	MAGISTRATE JUDGE HORNSBY

MEMORANDUM ORDER

Plaintiff, who is a citizen of Louisiana, filed suit in state court against PetSmart, a citizen of Delaware and Arizona. PetSmart removed the case based on diversity jurisdiction. Plaintiff earlier moved to amend and add new defendant SMS Assist, LLC. The proposed amended complaint stated a belief that no member of SMS Assist is a citizen of Louisiana. The court allowed the amendment but pointed out that there was not sufficient information to determine the citizenship of SMS Assist. When a defendant is an LLC, the record must include specific information about each of its members and their citizenship. Settlement Funding, L.L.C. v. Rapid Settlements, Ltd., 851 F.3d 530, 536 (5th Cir. 2017); Rodidaco, Inc. v. Chesapeake Energy Louisiana Corp. 2018 WL 3551525 (W.D. La. 2018).

The court allowed the amendment but reserved the right to vacate the order if it was determined that SMS Assist has Louisiana citizenship and the Hensgens factors (which govern the addition of a diversity-destroying defendant post-removal) were not satisfied. Doc. 24. The order directed SMS Assist to include in its answer specific allegations of the identity of its members and their citizenship. The court advised SMS Assist that the rules

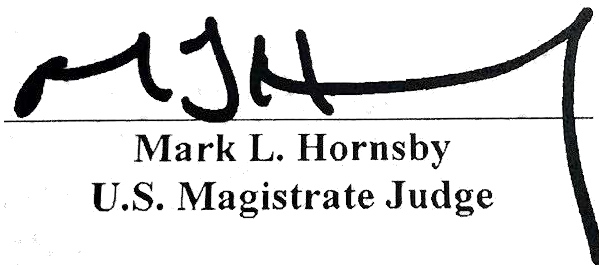
for determining the citizenship of an LLC, a corporation, a partnership, and an individual can be found in Four W Trucking, LLC v. Nguyen, No. 22-CV-181, 2022 WL 243711 (W.D. La. Jan. 25, 2022).

SMS Assist has now filed an answer. Doc. 36. It states that SMS Assist is a foreign LLC and “none of its members are citizens of Louisiana.” Its corporate disclosure statement (Doc. 39) identifies three LLCs that each own more than 10% of SMS Assist. That information is not sufficient to determine the citizenship of SMS Assist for purposes of diversity jurisdiction. SMS Assist will have to identify *each* of its members and allege their citizenship, which will require going through all organizational levels in detail. The mere assertion that no member of SMS Assist is a citizen of Louisiana is not sufficient. Settlement Funding, 851 F.3d at 536; Rodidaco, Inc., 2018 WL 3551525 at *1. Such general assertions have often proven to be incorrect.

The court has issued a recommendation that Plaintiff be allowed to amend and add new defendant DD Carpet Cleaning and Janitorial Services, LLC. The addition of that defendant, if allowed, will destroy diversity jurisdiction and require remand no matter the citizenship of SMS Assist. That would render moot the need for SMS Assist to set forth its citizenship in detail. Accordingly, the court will not require such information be provided now.

If Judge Foote does not adopt the report and recommendation and denies the motion for leave to add DD Carpet Cleaning as a defendant, then **SMS Assist** will be allowed **14 days from the entry of that order** to file an amended answer or other submission that sets forth its citizenship information in detail in accordance with the referenced rules.

THUS DONE AND SIGNED in Shreveport, Louisiana, this 19th day of
September, 2022.



Mark L. Hornsby
U.S. Magistrate Judge