

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**KEVIN POSEY,
Plaintiff**

CIVIL ACTION

VERSUS

NO. 15-1021

**NATIONAL OILWELL VARCO, L.P.,
Defendant**

SECTION: "E" (5)

ORDER

Subject matter jurisdiction in this case is premised on diversity of citizenship. On April 2, 2015, the Court ordered Plaintiff to amend his complaint solely for the purpose of (1) properly alleging citizenship, and (2) setting forth additional allegations that demonstrate the amount in controversy exceeds \$75,000.¹ Plaintiff filed an amended complaint on April 6, 2015.² The jurisdictional allegations are still deficient. Plaintiff apparently requires a lesson in basic civil procedure, so the Court will give it to him.

The Defendant is a limited partnership. As such, it is a citizen "of each state in which its partners—both general and limited—hold citizenship."³ Thus, in order to determine Defendant's citizenship, the Court must first determine the citizenship of Defendant's partners.

According to the amended complaint, the limited partnership is composed of two partners—Now Oilfield Services, Inc. ("Now") and Natoil, LLC ("Natoil"). For purposes of diversity jurisdiction, Now is a citizen of (1) the state in which it is incorporated, and (2) the state in which its principal place of business is located.⁴ The amended complaint only identifies Now's state of incorporation.

¹ R. Doc. 4.

² R. Doc. 5.

³ *Whalen v. Carter*, 954 F.2d 1087, 1095 (5th Cir. 1992).

⁴ 28 U.S.C. § 1332(c)(1).

Natoil is a limited liability company. It is well established that "the citizenship of a LLC is determined by the citizenship of all of its members."⁵ Thus, in order to properly plead Natoil's citizenship, Plaintiff must identify each of Natoil's members and the citizenship of those members. In the event a member 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."⁶

The Court also finds that Plaintiff has failed to carry his burden of establishing the amount in controversy. The complaint baldly declares the amount in controversy exceeds \$75,000 yet provides only a cursory description of the accident.⁷ The complaint does not even attempt to describe the injury(ies) Plaintiff allegedly suffered.

Although the amount claimed by the plaintiff generally controls if made in good faith,⁸ it is still the plaintiff's burden "to allege with sufficient particularity the facts creating jurisdiction, in view of the nature of the right asserted, and, . . . if inquiry be made by the court of its own motion, to support the allegation."⁹ Plaintiff has not provided sufficient factual detail for the Court to conclude that the amount in controversy exceeds \$75,000.

Accordingly;

⁵ *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008).

⁶ *Miracle Ear, Inc. v. Premier Hearing Aid Center, L.L.C.*, No. 09-1691, 2009 WL 5198183, at *1 (E.D. La. Dec. 22, 2009).

⁷ See R. Doc. 5 ¶5.

⁸ *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 288 (1938).

⁹ *Id.* at n.10; see also *Diefenthal v. C.A.B.*, 681 F.2d 1039, 1052 (5th Cir. 1982).

IT IS ORDERED that Plaintiff file an amended complaint by April 15, 2015 solely for the purpose of correcting the jurisdictional deficiencies outlined above, or this matter will be dismissed without prejudice for lack of subject matter jurisdiction.

New Orleans, Louisiana, this 8th day of April, 2015.



SUSIE MORGAN
UNITED STATES DISTRICT JUDGE