

BBC - Cathy wants you to pay attention to the fact that she has cited to an unpublished opinion on page 2 of the order. If you wish that reference to be taken out, please let her know.

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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PAMELA KURTH,

Plaintiff,

v.

VENCOR, INC.,

Defendant.

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ORDER

02-C-0213-C

In response to this court's directive to provide evidence that diversity jurisdiction exists in this case, defendant explained the interrelationship between Vencor, Inc. (the entity plaintiff sued originally) and Kindred Nursing Centers L.P. d/b/a Kennedy Park Medical and Rehabilitation Center (the entity defendant contends should have been sued) provided some information regarding citizenship. However, it did not provide enough to allow the court to determine whether diversity jurisdiction exists with respect to citizenship. See Order dated June 14, 2002, dkt. #14.

Defendant informed the court that it has the following ownership structure: Kindred Healthcare, Inc. (formerly Vencor, Inc.) is a Delaware corporation and owns 100% of

Kindred Healthcare Operating, Inc., which also is a Delaware corporation. In turn, Kindred Healthcare Operating, Inc. is a 99% partner of Kindred Nursing Centers L.P. (the alleged proper defendant in this case). The other 1% partner is Kindred Hospitals L.P, which has two partners: Kindred Healthcare Operating, Inc. (99%) and Kindred Nursing Centers L.P. (1%).

In order for diversity of citizenship to exist in this case, defendant (Kindred Nursing Centers L.P.) must show that none of its limited or general partners are citizens of Wisconsin (plaintiff's state of residence). See Carden v. Arkoma Assocs., 494 U.S. 185, 197 (1990); see also Guaranty National Title Co. v. J.E.G. Associates, 101 F.3d 57, 58 (7th Cir. 1996) ("a limited partnership has the citizenships of each partner, general and limited"); Cerberus Partners, L.P. v. Gadsby & Hannah, 976 F. Supp. 119, 121-23 (D.R.I. 1997) (citizenship of every partner in multi-tiered partnership structures must be considered for diversity).

According to this ownership structure, one partner of Kindred Nursing Centers L.P. is a corporation (Kindred Healthcare Operating, Inc.). Under 28 U.S.C. § 1332(c), a corporation is a citizen of the state in which it is incorporated *and* the state in which it has its principal place of business. In this case, defendant has advised the court of the state of incorporation (Delaware) but has not said where the corporation has its principal place of business. Kindred Nursing Centers L.P.'s other partner is Kindred Hospitals L.P., which, in

turn, is owned by two entities: Kindred Nursing Centers L.P. (1%) and Kindred Healthcare Operating, Inc. (99%). Therefore, the only missing piece of the puzzle is Kindred Healthcare Operating, Inc.'s principal place of business.

Because Kindred Healthcare Operating, Inc. is a partner of Kindred Nursing Centers L.P. and is a corporation, defendant must advise the court of the corporation's principal place of business in order for this court to determine whether diversity jurisdiction exists.

ORDER

IT IS ORDERED that defendant may have until July 12, 2002, in which to submit information regarding Kindred Healthcare Operating, Inc's principal place of business for the purpose of determining the existence of diversity jurisdiction.

Entered this 3rd day of July, 2002.

BY THE COURT:



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BARBARA B. CRABB  
District Judge