

1 Jurisdiction is a threshold inquiry that must precede the adjudication of any case before
2 the district court. Morongo Band of Mission Indians v. Cal. State Bd. of Equalization, 858 F.2d
3 1376, 1380 (9th Cir. 1988). Federal courts are courts of limited jurisdiction and may adjudicate
4 only those cases authorized by federal law. Kokkonen v. Guardian Life Ins. Co., 511 U.S. 375,
5 377 (1994); Willy v. Coastal Corp., 503 U.S. 131, 136-37 (1992). “Federal courts are presumed
6 to lack jurisdiction, ‘unless the contrary appears affirmatively from the record.’” Casey v. Lewis,
7 4 F.3d 1516, 1519 (9th Cir. 1993) (quoting Bender v. Williamsport Area Sch. Dist., 475 U.S. 534,
8 546 (1986)).

9 Lack of subject matter jurisdiction may be raised by the court at any time during the
10 proceedings. Attorneys Trust v. Videotape Computer Prods., Inc., 93 F.3d 593, 594-95 (9th Cir.
11 1996). A federal court “ha[s] an independent obligation to address sua sponte whether [it] has
12 subject-matter jurisdiction.” Dittman v. California, 191 F.3d 1020, 1025 (9th Cir. 1999). It is the
13 obligation of the district court “to be alert to jurisdictional requirements.” Grupo Dataflux v.
14 Atlas Global Group, L.P., 541 U.S. 567, 593 (2004). Without jurisdiction, the district court
15 cannot decide the merits of a case or order any relief. See Morongo, 858 F.2d at 1380.

16 It is well established that the statutes governing removal jurisdiction must be “strictly
17 construed against removal.” Libhart v. Santa Monica Dairy Co., 592 F.2d 1062, 1064 (9th Cir.
18 1979) (citing Shamrock Oil & Gas Corp. v. Sheets, 313 U.S. 100, 108 (1941)); see also Syngenta
19 Crop Prot., Inc. v. Henson, 537 U.S. 28, 32 (2002); Provincial Gov’t of Martinduque v. Placer
20 Dome, Inc., 582 F.3d 1083, 1087 (9th Cir. 2009). “Federal jurisdiction must be rejected if there
21 is any doubt as to the right of removal in the first instance.” Gaus v. Miles, Inc., 980 F.2d 564,
22 566 (9th Cir. 1992). “‘The burden of establishing federal jurisdiction falls on the party invoking
23 removal.’” Harris v. Provident Life & Accident Ins. Co., 26 F.3d 930, 932 (9th Cir. 1994)
24 (quoting Gould v. Mut. Life Ins. Co., 790 F.2d 769, 771 (9th Cir. 1986)); see also Provincial
25 Gov’t of Martinduque, 582 F.3d at 1087.

26 The basic federal jurisdiction statutes are 28 U.S.C. §§ 1331 and 1332, which confer
27 “federal question” and “diversity” jurisdiction, respectively. Federal jurisdiction may also be
28 conferred by federal statutes regulating specific subject matter. “[T]he existence of federal

1 jurisdiction depends solely on the plaintiff's claims for relief and not on anticipated defenses to
2 those claims." ARCO Env'tl. Remediation, LLC v. Dep't of Health & Env'tl. Quality, 213 F.3d
3 1108, 1113 (9th Cir. 2000).

4 District courts have diversity jurisdiction only over "all civil actions where the matter in
5 controversy exceeds the sum or value of \$75,000, exclusive of interest and costs," and the action
6 is between: "(1) citizens of different States; (2) citizens of a State and citizens or subjects of a
7 foreign state; (3) citizens of different States and in which citizens or subjects of a foreign state are
8 additional parties; and (4) a foreign state . . . as plaintiff and citizens of a State or of different
9 States." 28 U.S.C. § 1332. "To demonstrate citizenship for diversity purposes a party must (a) be
10 a citizen of the United States, and (b) be domiciled in a state of the United States." Lew v. Moss,
11 797 F.2d 747, 749 (9th Cir. 1986). "Diversity jurisdiction requires complete diversity between
12 the parties—each defendant must be a citizen of a different state from each plaintiff." In re
13 Digimarc Corp. Derivative Litigation, 549 F.3d 1223, 1234 (9th Cir. 2008).

14 As the undersigned noted in the October 18, 2016 order to show cause, it appears that
15 plaintiff's complaint asserts only state law causes of action. (ECF No. 1 at 18.) Moreover,
16 although the defendant alleges that he "is a 'foreign state'" because he "sojourns upon the lands
17 within the lands within the territorial jurisdiction of the court," it appears that the defendant and
18 plaintiff are both citizens of the State of California. (ECF No. 1 at 4, 20.)

19 The undersigned provided defendant with an opportunity to address this issue. Defendant
20 responded by filing a motion to dismiss. Therein, defendant asserts that "this court lacks
21 jurisdiction over the subject matter of the claim set forth in the complaint," because the amount in
22 controversy is less than \$75,000.² (ECF No. 8 at 1.)

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27 ² Defendant also argues that the court lacks personal jurisdiction over the defendant and asks that
28 the complaint be dismissed with prejudice. (ECF No. 8 at 2.)

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Accordingly, IT IS HEREBY ORDERED that:

1. Defendant’s November 4, 2016 application for an extension of time (ECF No. 5) is granted *nunc pro tunc*; and
2. The December 7, 2016 hearing of defendant’s motion to dismiss is vacated.

IT IS ALSO HEREBY RECOMMENDED that this matter be summarily remanded to the Sacramento County Superior Court and that this case be closed.

These findings and recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14) days after being served with these findings and recommendations, plaintiff may file written objections with the court. A document containing objections should be titled “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file objections within the specified time may, under certain circumstances, waive the right to appeal the District Court’s order. See *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

Dated: November 29, 2016


DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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