

1 corporate party is a citizen of the state by which it has been incorporated and of
2 the state where it has its principal place of business, 28 U.S.C. § 1332(c)(1), "an
3 allegation that a corporation is a citizen of a certain state (without more) is not an
4 allegation of fact, but a mere conclusion of law" that is inadequate to establish
5 diversity jurisdiction. Fifty Associates v. Prudential Insurance Co. of America, 446
6 F.2d 1187, 1190 (9th Cir. 1970). In order to cure this jurisdictional deficiency, the
7 Court will require the removing defendants to file an amended notice of removal
8 that properly and affirmatively states the citizenship of M.J. Harris, Inc. The
9 removing defendants are advised that their failure to timely comply with this order
10 will result in the remand of this action without further notice for lack of subject
11 matter jurisdiction.

12 The removing defendants will also be required to explain in the amended
13 notice of removal why removal is procedurally proper in light of (1) the "rule of
14 unanimity" given that the Notice of Removal fails to state anything about whether
15 co-defendant Mercury A/C & Heating, Inc. has consented to the removal
16 notwithstanding that it is alleged to have been served with process on August 2,
17 2010, and (2) the "no local defendant" prohibition of 28 U.S.C. § 1441(b) (an
18 action based on diversity may be removed "only if none of the parties in interest
19 properly joined and served as defendants is a citizen of the State in which such
20 action is brought[,]" given that the Notice of Removal states that co-defendant
21 Mercury A/C & Heating, Inc. "is incorporated in the State of Arizona with its
22 principal place of business in Lake Havasu City, Arizona." Therefore,

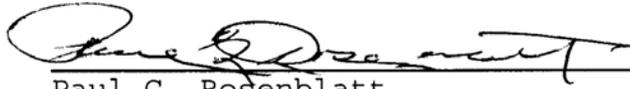
23 IT IS ORDERED that the removing defendants shall file an amended notice

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1 of removal in compliance with this Order no later than **September 8, 2010**.

2 DATED this 31st day of August, 2010.

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5 Paul G. Rosenblatt
6 United States District Judge
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