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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Janice Louise McCleary, et al.,

10 Plaintiffs,

11 v.

12 Narinder B Singh, et al.,

13 Defendants.  
14

No. CV-24-08056-PCT-DWL

**ORDER**

15 The Court has an independent obligation to determine whether it has subject-matter  
16 jurisdiction. *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583 (1999). Pursuant to  
17 Rule 12(h)(3) of the Federal Rules of Civil Procedure, “[i]f the court determines at any  
18 time that it lacks subject-matter jurisdiction, the court must dismiss the action.”

19 Diversity jurisdiction exists when there is complete diversity of citizenship between  
20 the plaintiffs and the defendants and the amount in controversy exceeds \$75,000, exclusive  
21 of interests and costs. 28 U.S.C. § 1332. A controversy meets this requirement when “all  
22 the persons on one side of it are citizens of different states from all the persons on the other  
23 side.” *Strawbridge v. Curtiss*, 7 U.S. 267 (1806).

24 The party seeking to invoke diversity jurisdiction has the burden of  
25 proof, *Lew v. Moss*, 797 F.2d 747, 749-50 (9th Cir. 1986), by a preponderance of the  
26 evidence. *McNatt v. Allied-Signal, Inc.*, 972 F.2d 1340 (9th Cir. 1992); *see* 13B Federal  
27 Practice § 3611 at 521 & n. 34. “Absent unusual circumstances, a party seeking to invoke  
28 diversity jurisdiction should be able to allege affirmatively the actual citizenship of the

1 relevant parties.” *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001).

2 Plaintiffs bring this action asserting diversity as the sole basis of the Court’s subject-  
3 matter jurisdiction. (Doc. 1 ¶ 11.) Plaintiffs attempted to allege the citizenship of the  
4 parties by alleging that each plaintiff is a “resident” of Missouri and that each defendant  
5 who is a natural person is a “resident” of California. (*Id.* ¶¶ 1-3, 6-8.) As to natural persons,  
6 an allegation about an individual’s residence does not establish citizenship for purposes of  
7 establishing diversity jurisdiction. “It has long been settled that residence  
8 and citizenship [are] wholly different things within the meaning of the Constitution and the  
9 laws defining and regulating the jurisdiction of the . . . courts of the United States; and that  
10 a mere averment of residence in a particular state is not an averment of citizenship in that  
11 state for the purpose of jurisdiction.” *Steigleder v. McQuesten*, 198 U.S. 141, 143 (1905).  
12 “To be a citizen of a state, a natural person must first be a citizen of the United States. The  
13 natural person’s state citizenship is then determined by her state of domicile, not her state  
14 of residence. A person’s domicile is her *permanent* home, where she resides with the  
15 intention to remain or to which she intends to return.” *Kanter*, 265 F.3d at 858-59  
16 (emphasis added) (citations omitted).

17 “[F]ailure to specify [a party’s] state citizenship” is a “serious pleading defect” that  
18 is “fatal” to an “assertion of diversity jurisdiction.” *Id.* at 857-58. Plaintiffs must amend  
19 the Complaint to allege the citizenship of the individual natural persons who are parties to  
20 this lawsuit.<sup>1</sup> *NewGen, LLC v. Safe Cig, LLC*, 840 F.3d 606, 612 (9th Cir. 2016) (“Courts  
21 may permit parties to amend defective allegations of jurisdiction at any stage in the  
22 proceedings.”). While Plaintiffs are expected to know their own citizenship, the citizenship  
23 of the defendants who are natural persons “may be based solely on information and belief.”  
24 *Ehrman v. Cox Commc'ns, Inc.*, 932 F.3d 1223, 1227 (9th Cir. 2019).

25 Accordingly,

26 **IT IS ORDERED** that Plaintiffs shall file and serve an amended complaint properly

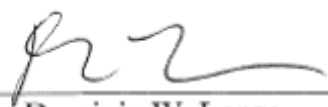
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28 <sup>1</sup> This amended complaint pursuant to court order will not affect Plaintiffs’ right  
under Rule 15(a)(1) to later amend once as a matter of course, if they choose to do so. *See*,  
*e.g.*, *Ramirez v. Cty. of San Bernardino*, 806 F.3d 1002, 1006-09 (9th Cir. 2015).

1 stating a jurisdictional basis for this action no later than **May 17, 2024**. Plaintiffs shall  
2 serve a copy of this order along with the amended complaint so Defendants will understand  
3 the reason for the amendment.

4 **IT IS FURTHER ORDERED** that if Plaintiffs fail to timely file an amended  
5 complaint, the Clerk of the Court shall dismiss this case, without prejudice, for lack of  
6 subject-matter jurisdiction.

7 Dated this 8th day of May, 2024.

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Dominic W. Lanza  
United States District Judge