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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Michael Aguilar and Matilda)	CV 13-01188 RSWL (OPx)
Aguilar,)	
Plaintiffs,)	ORDER TO SHOW CAUSE RE:
v.)	SUBJECT MATTER
Home Depot U.S.A., Inc.;)	JURISDICTION
John Doe; and Does 1 to)	
100,)	
Defendants.)	
)	
)	

The Court is in receipt of Defendant Home Depot U.S.A., Inc.'s ("Home Depot") Notice of Removal, which alleges diversity jurisdiction as the ground for removing this Action to federal court [1].

The removal statute, 28 U.S.C. § 1441, allows a defendant to remove a case originally filed in state court when the case presents a federal question or is an action between citizens of different states and involves an amount in controversy that exceeds \$75,000. See 28 U.S.C. §§ 1441(a), (b). See also 28 U.S.C. §§

1 1331, 1332(a).

2 The Ninth Circuit "strictly construe[s] the removal
3 statute against removal jurisdiction," and "[f]ederal
4 jurisdiction must be rejected if there is any doubt as
5 to the right of removal in the first instance." Gaus
6 v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992)
7 (citing Boggs v. Lewis, 863 F.2d 662, 663 (9th Cir.
8 1988), Takeda v. Northwestern Nat'l Life Ins. Co., 765
9 F.2d 815, 818 (9th Cir. 1985), and Libhart v. Santa
10 Monica Dairy Co., 592 F.2d 1062, 1064 (9th Cir. 1979)).
11 "The 'strong presumption' against removal jurisdiction
12 means that the defendant always has the burden of
13 establishing that removal is proper." Id. (citing
14 Nishimoto v. Federman-Bachrach & Assocs., 903 F.2d 709,
15 712 n. 3 (9th Cir. 1990), and Emich v. Touche Ross &
16 Co., 846 F.2d 1190, 1195 (9th Cir. 1988)).

17 "[J]urisdiction founded on [diversity] requires
18 that parties be in complete diversity and the amount in
19 controversy exceed \$75,000." Matheson v. Progressive
20 Specialty Ins. Co., 319 F.3d 1089, 1090 (9th Cir.
21 2003). See 28 U.S.C. § 1332(a)(1). Federal courts
22 have jurisdiction only where there is *complete*
23 diversity: the plaintiff's citizenship must be diverse
24 from that of each named defendant. 28 U.S.C. §§
25 1332(a)(1), 1332(c)(1). See Caterpillar, Inc. v.
26 Lewis, 519 U.S. 61, 68 n. 3 (1996). See also Cook v.
27 AVI Casino Enters., Inc., No. 07-15088, 2008 WL
28 4890167, *3 (9th Cir. Nov. 14, 2008) (Unpub.Disp.).

1 As the party invoking federal jurisdiction in this
2 case, Defendant Home Depot has the burden of
3 establishing the existence of subject matter
4 jurisdiction. See Kokkonen v. Guardian Life Ins. Co.,
5 511 U.S. 375, 377 (1994); In re Ford Motor Co., 264
6 F.3d 952, 957 (9th Cir. 2001); Thompson v. McCombe, 99
7 F.3d 352, 353 (9th Cir. 1996). The Notice of Removal
8 alleges that removal is proper based on diversity
9 jurisdiction. However, the Complaint and Notice of
10 Removal are completely silent on the citizenship of the
11 Parties. Accordingly, whether complete diversity
12 exists between the Parties at the time of the
13 commencement of this Action cannot be determined.

14 Therefore, it is ORDERED that Defendant Home Depot
15 show cause why this case is removable to federal
16 district court based on diversity of citizenship.
17 Defendant Home Depot has no later than March 22, 2013,
18 to respond, demonstrating why this case should not be
19 remanded for lack of subject matter jurisdiction.

20
21 **IT IS SO ORDERED.**

22 DATED: March 7, 2013

23
24 **RONALD S.W. LEW**

25 **HONORABLE RONALD S.W. LEW**

26 Senior, U.S. District Court Judge
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