

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

Credit Managers Association )  
of California, DBA Credit )  
Managers Association, )  
Assignee for the Benefit of )  
Creditors of Pandigital, )  
Inc., )  
Plaintiff, )  
v. )  
American Express Co.; and )  
Does 1 through 10, )  
inclusive, )  
Defendants. )

CV 13-5342 RSWL (MRWx)

**ORDER TO SHOW CAUSE RE:  
SUBJECT MATTER  
JURISDICTION**

The Court is in receipt of Defendant American Express Company's ("AEC") 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.

1 See 28 U.S.C. §§ 1441(a), (b). See also 28 U.S.C. §§  
2 1331, 1332(a).

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

18 "[J]urisdiction founded on [diversity] requires  
19 that parties be in complete diversity and the amount in  
20 controversy exceed \$75,000." Matheson v. Progressive  
21 Specialty Ins. Co., 319 F.3d 1089, 1090 (9th Cir.  
22 2003). See 28 U.S.C. § 1332(a)(1).

23 As the party invoking federal jurisdiction in this  
24 case, Defendant AEC has the burden of establishing the  
25 existence of subject matter jurisdiction. See Kokkonen  
26 v. Guardian Life Ins. Co., 511 U.S. 375, 377 (1994); In  
27 re Ford Motor Co., 264 F.3d 952, 957 (9th Cir. 2001);  
28 Thompson v. McCombe, 99 F.3d 352, 353 (9th Cir. 1996).

1 The Notice of Removal alleges that removal is proper  
2 based on diversity jurisdiction. Here, the Complaint  
3 alleges that the amount in controversy is \$74,000,  
4 which is less than what is required for establishing  
5 diversity jurisdiction. See Compl. ¶ 6.

6 Therefore, it is **ORDERED** that Defendant AEC show  
7 cause why this case is removable to federal district  
8 court based on diversity of citizenship. Defendant AEC  
9 has no later than **August 15, 2013**, to respond, in  
10 writing, demonstrating why this case should not be  
11 remanded for lack of subject matter jurisdiction. The  
12 matter will stand submitted upon the filing of the  
13 response or on the date the response is due, whichever  
14 occurs first.

15  
16 **IT IS SO ORDERED.**

17 DATED: August 5, 2013

18  
19 RONALD S.W. LEW

20 

---

HONORABLE RONALD S.W. LEW  
21 Senior, U.S. District Court Judge  
22  
23  
24  
25  
26  
27  
28