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5 cc: order, docket, remand letter to  
6 Los Angeles Superior Court, No. BC513772  
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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10  
11 ANTONIA MONTANEZ,  
12 Plaintiff,  
13 v.  
14 MACY’S, INC., and DOES 1 through 50,  
inclusive,  
15 Defendants.  
16

Case No. 2:13-cv-05707-ODW(PJWx)

**ORDER REMANDING CASE TO  
LOS ANGELES COUNTY  
SUPERIOR COURT**

17 On August 7, 2013, Defendant Macy’s, Inc. removed this action from the Los  
18 Angeles County Superior Court. But after considering the papers filed with the  
19 Notice of Removal, the Court determines that Macy’s has failed to satisfy its burden  
20 of establishing federal jurisdiction. The Court therefore **REMANDS** this action back  
21 to Los Angeles County Superior Court.

22 Federal courts are courts of limited jurisdiction, only having subject-matter  
23 jurisdiction over matters authorized by the Constitution and Congress. U.S. Const.  
24 art. III, § 2, cl. 1; *e.g.*, *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377  
25 (1994).

26 A suit filed in state court may be removed to federal court if the federal court  
27 would have had original jurisdiction over the suit. 28 U.S.C. § 1441(a). But courts  
28 strictly construe § 1441 against a finding of removal jurisdiction, and “[f]ederal

1 jurisdiction must be rejected if there is any doubt as to the right of removal in the first  
2 instance.” *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992). The party seeking  
3 removal bears the burden of establishing federal jurisdiction. *Durham v. Lockheed*  
4 *Martin Corp.*, 445 F.3d 1247, 1252 (9th Cir. 2006) (citing *Gaus*, 980 F.2d at 566).

5 Federal courts have original jurisdiction where an action presents a federal  
6 question under 28 U.S.C. § 1331, or diversity of citizenship under 28 U.S.C. § 1332.  
7 To exercise diversity jurisdiction, a federal court must find complete diversity of  
8 citizenship among the adverse parties, and the amount in controversy must exceed  
9 \$75,000, usually exclusive of interest and costs. 28 U.S.C. § 1332(a).

10 With respect to citizenship, Macy’s Notice of Removal asserts that “[a]ccording  
11 to the Complaint, Plaintiff is a citizen of California who resides in Los Angeles  
12 County, California.” (Notice of Removal 2.) After reviewing the Complaint, the  
13 Court finds no such statement. The Complaint states, “Plaintiff . . . is an individual  
14 who at all times relevant herein was a resident of Los Angeles County, State of  
15 California”—the Complaint does not declare her citizenship. Residency allegations  
16 alone are inadequate to establish citizenship. A natural person’s citizenship is  
17 “determined by her state of domicile, not her state of residence.” *Kantor v. Warner-*  
18 *Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001); *see also Jeffcott v. Donovan*, 135  
19 F.2d 213, 214 (9th Cir. 1943) (“Diversity of citizenship as a basis for the jurisdiction  
20 of a cause in the District Court of the United States is not dependent upon the  
21 residence of any of the parties, but upon their citizenship.”). And while a party’s  
22 residence may be prima facie evidence of that party’s domicile when an action is  
23 *originally* brought in federal court, residency allegations in alone do not suffice to  
24 establish citizenship on removal in light of the strong presumption against removal  
25 jurisdiction. *See State Farm Mut. Auto. Ins. v. Dyer*, 19 F.3d 514, 520 (10th Cir.  
26 1994); *see Kantor*, 265 F.3d at 857; *Gaus*, 980 F.2d at 567.

27 Moreover, Macy’s cites no other objective facts to establish that Plaintiff is  
28 domiciled in California, such as “voting registration and voting practices, location of

1 personal and real property, location of brokerage and bank accounts, location of  
2 spouse and family, membership in unions and other organizations, place of  
3 employment or business, driver's license and automobile registration, and payment of  
4 taxes." *Lew v. Moss*, 797 F.2d 747, 750 (9th Cir. 1986). Even construing Macy's  
5 citizenship allegations as ones formed under information and belief, those are likewise  
6 inadequate to establish diversity jurisdiction on removal. On removal, "alleging  
7 diversity of citizenship upon information and belief is insufficient." *Bradford v.*  
8 *Mitchell Bros. Truck Lines*, 217 F. Supp. 525, 527 (N.D. Cal. 1963); *see also Kantor*,  
9 265 F.3d at 857 ("Absent unusual circumstances, a party seeking to invoke diversity  
10 jurisdiction should be able to allege affirmatively the actual citizenship of the relevant  
11 parties.").

12 Because Macy's fails to meet its high burden on removal to establish complete  
13 diversity between the parties, the Court **REMANDS** this case to Los Angeles County  
14 Superior Court, Case Number BC513772. The Clerk of Court shall close this case.

15 **IT IS SO ORDERED.**

16 August 12, 2013

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19 **OTIS D. WRIGHT, II**  
20 **UNITED STATES DISTRICT JUDGE**