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

ROBERT MAGNET, Plaintiff, v. FRANCK’S LAB, INC., dba FRANCK’S COMPOUNDING LAB, FRANCK’S PHARMACY, INC., FRANCK’S MANAGEMENT, LLC, FRANCK’S HEALTHY LIFESTYLES, LLC, KENT W. SMALL, M.D.; MACULA & RETINA INSTITUTE and DOES 1 through 300, inclusive, Defendants.
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Case No. 2:13-cv-7602-ODW (MANx)

**ORDER TO SHOW CAUSE WHY
THIS COURT SHOULD NOT
REMAND FOR LACK OF SUBJECT
MATTER JURISDICTION**

The Court has received the Notice of Removal from Defendants Franck’s Lab, Inc., dba Franck’s Compounding Lab; Franck’s Pharmacy, Inc.; Franck’s Healthy Lifestyles, LLC; Paul W. Franck; and Anthony James Campbell (“Defendants”). However, the Court is not convinced that it has subject matter jurisdiction over this action. When a defendant attempts to remove an action from state court, the Court is “obligated to consider *sua sponte* whether we have subject matter jurisdiction” over the instant claims. *Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1116 (9th Cir. 2004).

Defendants cite diversity of citizenship as a basis of subject matter jurisdiction under 28 U.S.C. § 1332. Defendants’ Notice of Removal asserts that Defendants are

1 all citizens of the State of Florida and that “Plaintiff is a resident of the County of Los
2 Angles, State of California.” (Notice of Removal ¶ 2.) Nevertheless, for the purposes
3 of complete diversity, a natural person’s citizenship is “determined by [his] state of
4 domicile, not [his] state of residence.” *Kantor v. Warner-Lambert Co.*, 265 F.3d 853,
5 857 (9th Cir. 2001). Residency allegations alone are inadequate to establish
6 citizenship on removal in light of the strong presumption against removal jurisdiction.
7 *See id.* at 857. After carefully examining Defendants’ Notice of Removal, it appears
8 that Defendants cite no objective facts beyond a statement of residency to establish
9 Plaintiff Robert Magnet’s domicile. Accordingly, the Court hereby **ORDERS**
10 Defendants to show cause in writing no later than **October 31, 2013**, why this action
11 should not be remanded for lack of subject matter jurisdiction. Defendants must
12 clearly establish diversity of citizenship. Plaintiff Robert Magnet may file a
13 simultaneous brief on this matter, if he so chooses. No oral argument on this matter
14 will be heard unless ordered by the Court.

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17 **IT IS SO ORDERED.**

18
19 October 21, 2013

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22 **OTIS D. WRIGHT, II**
23 **UNITED STATES DISTRICT JUDGE**