

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. LA CV15-06266 JAK (FFMx)

Date November 5, 2015

Title Banducci v. Stereo Vision Entertainment, Inc., et al.

Present: The Honorable JOHN A. KRONSTADT, UNITED STATES DISTRICT JUDGE

Andrea Keifer

Not Reported

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: (IN CHAMBERS) ORDER TO SHOW CAUSE RE SUBJECT MATTER JURISDICTION

Anthony Banducci (“Plaintiff”) brought this action in the Los Angeles Superior Court against Stereo Vision Entertainment, Inc. (“Stereo”), Jack Honour (“Honour”), Bob Myers (“Myers”) and Susan Moses (“Moses”) (collectively, “Defendants”). Complaint, Dkt. 1-3. The Complaint arises from allegations that Defendants breached a contract when they failed to repay a loan.

Defendants removed this action, claiming that there is diversity jurisdiction pursuant to 28 U.S.C. § 1332(a)(1). Notice of Removal, Dkt. 1. A civil action may be filed in a federal court based on diversity jurisdiction only where the adverse parties are citizens of different states, and the amount in controversy exceeds \$75,000. *Id.* Complete diversity of citizenship is required; “the citizenship of each plaintiff [must be] different from that of each defendant.” *Hunter v. Philip Morris USA*, 582 F.3d 1039, 1043 (9th Cir. 2009). As a court of limited jurisdiction, a federal court must determine the issue of subject matter jurisdiction before reaching the merits of a case. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994); *Steel Co. v. Citizens for a Better Env’t.*, 523 U.S. 83, 94 (1998).

Defendant Stereo is a corporation. For the purposes of determining diversity jurisdiction, “a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business.” 28 U.S.C. § 1332(c)(1). A corporation’s “principal place of business” refers to “the place where a corporation’s officers direct, control, and coordinate the corporation’s activities.” *Hertz Corp. v. Friend*, 559 U.S. 77, 93 (2010). This is commonly known as the “nerve center.” *Id.* at 92-93. “[I]n practice it should normally be the place where the corporation maintains its headquarters.” *Id.*

The remaining parties are individuals. An individual is a citizen of the state where he or she is domiciled. This means the state where the person resides with the intent to remain or the place to which he or she intends to return. *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir.2001).

Defendants’ Notice of Removal states that Plaintiff is a citizen of California. Dkt. 1 at 2. It also claims that

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Stereo is incorporated in Nevada. *Id.* Finally, it claims that Honour is a citizen of Florida, Myers is a citizen of Ohio and Moses is a citizen of North Carolina. *Id.* at 2-3. Very little evidence is presented as to any of these claims. Moreover, these claims are in conflict with the allegations of the Complaint. It alleges that: (i) Stereo is headquartered in California; (ii) Honour is a citizen of California; and (iii) Moses is a citizen of California. Dkt. 1-3 at 1.

The party seeking to invoke the Court's jurisdiction bears the burden of establishing it. *Kokkonen*, 511 U.S. at 377. Defendants have not met this standard. Accordingly, on or before **November 10, 2015**, each party is to submit a memorandum, each of which is not to exceed five pages, together with supporting evidence, with respect to their respective claims as to the citizenship of each of the parties and whether there is diversity jurisdiction over this action. Upon receiving these filings, the Court will determine whether a hearing on any issue raised is necessary.

IT IS SO ORDERED.

Initials of Preparer _____ : _____
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