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

CIVIL MINUTES – GENERAL

Case No.	CV 16-03743-BRO (FFMx)	Date	June 6, 2016
Title	GILBERTO RANGEL V. BRIDGESTONE RETAIL OPERATIONS, LLC ET AL		

Present: The Honorable **BEVERLY REID O’CONNELL, United States District Judge**

Renee A. Fisher

Not Present

N/A

Deputy Clerk

Court Reporter

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: (IN CHAMBERS)

ORDER TO SHOW CAUSE RE: SUBJECT MATTER JURISDICTION

A federal court must determine its own jurisdiction, even where there is no objection to it. *Rains v. Criterion Sys., Inc.*, 80 F.3d 339, 342 (9th Cir. 1996). Because federal courts are of limited jurisdiction, they possess original jurisdiction only as authorized by the Constitution and federal statute. *See Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). Original jurisdiction may be established pursuant to 28 U.S.C. § 1332, which provides that a federal district court has jurisdiction over a civil action between citizens of different states where the amount in controversy exceeds \$75,000. 28 U.S.C. § 1332. The United States Supreme Court has interpreted the diversity statute to require “complete diversity of citizenship,” meaning that each plaintiff must be diverse from each defendant.” *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 67–68 (1996).

In their Notice of Removal, Defendants Bridgestone Retail Operations, LLC (“BSRO”) and George Stylianoudakis¹ (collectively, “Defendants”) allege that there is complete diversity between Plaintiff Gilberto Rangel (“Plaintiff”) and Defendant BRSO, and that Defendant Stylianoudakis is a “sham” defendant whose citizenship may be disregarded for the purpose of removal.² (Dkt. No. 1 (hereinafter, “Removal”) ¶¶ 4–5.)

¹ Plaintiff’s Complaint erroneously names George Stylianoudakis as “George S. Stylianoudak.” (*See* Dkt. No. 1.)

² The Court notes that Defendants aver that, given the nature of Plaintiff’s claims, damages will exceed \$75,000, thereby satisfying the amount in controversy requirement. (Removal ¶¶ 29–37.)

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A. Citizenship of a Limited Liability Corporation

Defendants claim that Defendant BRSO is a limited liability company organized in Delaware with its “principal place of business” in Illinois. (Removal ¶ 8.) Under § 1332(c), a corporation is a citizen of each state in which it is incorporated and in the state where it has its principal place of business. 28 U.S.C. § 1332(c). With regard to limited liability companies, however, the rules defining “citizenship” are different. A limited liability company is considered to be a citizen of *every* state of which its members are citizens. *See Johnson v. Columbia Props. Anchorage*, 437 F.3d 894, 899 (9th Cir. 2006) (“We therefore join our sister circuits and hold that, like a partnership, an LLC is a citizen of every state of which its owners/members are citizens.”).

Defendants do not provide adequate information regarding the citizenship of Defendant BRSO’s members, which is necessary to determine whether complete diversity in fact exists in this case. *See Johnson*, 437 F.3d at 899. In their Corporate Disclosure Statement, Defendants claim that BSRO is a privately held limited liability company with a sole member, Bridgestone Americas, Inc. (“BSAM”). (Dkt. No. 4.) Defendants, however, do not elaborate on the citizenship of BSAM. Should BSAM, as a member of Defendant BSRO, be a citizen of California, complete diversity would be destroyed, and the court would lack subject matter jurisdiction under 28 U.S.C. § 1332.

B. “Sham” Defendant

Defendants claim that Defendant George Stylianoudakis is a citizen of California, but that his citizenship should be disregarded for the purposes of removal because he is a “sham” defendant. (Removal ¶¶ 4, 9.) A non-diverse defendant who has been fraudulently joined may be disregarded for diversity jurisdiction purposes. *Hunter v. Philip Morris USA*, 582 F.3d 1039, 1043 (9th Cir. 2009). A fraudulently joined defendant is frequently referred to as a “sham” defendant. Fraudulent joinder exists—and the non-diverse defendant is ignored for purposes of determining diversity of the parties—if the plaintiff “fails to state a cause of action against a resident defendant, and the failure is obvious according to the settled rules of the state.” *McCabe v. Gen. Foods Corp.*, 811 F.2d 1336, 1339 (9th Cir. 1987). A defendant is deemed a “sham” defendant if, after all disputed questions of fact and ambiguities in the controlling law are resolved in the plaintiff’s favor, the plaintiff could not possibly recover against the party whose

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joinder is questioned. *Krusco v. Int’l Tel. & Tel. Corp.*, 872 F.2d 1416, 1426 (9th Cir. 1989).

Defendants allege that although Defendant Stylianoudakis is non-diverse, he is a fraudulently joined, “sham” defendant. (Removal ¶ 5.) According to Defendants, Plaintiff fails to state a claim against Defendant Stylianoudakis under well-stated law and that no amendment to the pleadings would cure the deficiency. (Removal ¶ 13.) However, Defendants’ statements are conclusory; Defendants do not adequately explain why, under California law, Plaintiff would not be able to amend the complaint to cure the supposed deficiency. *See Burris v. AT & T Wireless, Inc.*, No. C 06-02904 JSW, 2006 WL 2038040, at *2 (N.D. Cal. July, 19 2006). If Defendant Stylianoudakis is not a “sham” defendant, complete diversity is destroyed under 28 U.S.C. § 1332, as Defendant Stylianoudakis is a citizen of California. Thus, without more information, it remains unclear whether the Court possesses subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1332.

The Court therefore **ORDERS** Defendants to show cause as to why this case should not be dismissed for lack of subject matter jurisdiction. Defendants shall file their response to this Court’s Order **no later than Friday, June 10, 2016, at 4:00 p.m.** An appropriate response will: (1) clarify the citizenship of each of Defendant BSRO’s members, and (2) clarify why Defendant Stylianoudakis is a “sham” defendant.

IT IS SO ORDERED.

Initials of Preparer

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