

JS-6

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

<b>Case No.</b>	CV 17-8838 PA (KSx)	<b>Date</b>	December 12, 2017
<b>Title</b>	Zoriall LLC, et al. v. Starr Indemnity and Liability Company		

<b>Present: The Honorable</b>	PERCY ANDERSON, UNITED STATES DISTRICT JUDGE		
Renee Fisher	Not Reported	N/A	
Deputy Clerk	Court Reporter	Tape No.	
<b>Attorneys Present for Plaintiff:</b>		<b>Attorneys Present for Defendant:</b>	
None		None	

**Proceedings:** IN CHAMBERS - COURT ORDER

Before the Court is a Notice of Removal filed by defendant Starr Indemnity and Liability Company (“Defendant”) on December 8, 2017. (Docket No. 1.) Defendant asserts that this Court has jurisdiction over the action brought against it by plaintiffs Zoriall LLC, Anne Kihagi, and Christina Mwangi (collectively, “Plaintiffs”) based on the Court’s diversity jurisdiction. See 28 U.S.C. § 1332.

Federal courts are courts of limited jurisdiction, having subject matter jurisdiction only over matters authorized by the Constitution and Congress. See, e.g., Kokkonen v. Guardian Life Ins. Co., 511 U.S. 375, 377, 114 S. Ct. 1673, 1675, 128 L. Ed. 2d 391 (1994). A suit filed in state court may be removed to federal court if the federal court would have had original jurisdiction over the suit. 28 U.S.C. § 1441(a). A removed action must be remanded to state court if the federal court lacks subject matter jurisdiction. 28 U.S.C. § 1447(c). “The burden of establishing federal jurisdiction is on the party seeking removal, and the removal statute is strictly construed against removal jurisdiction.” Prize Frize, Inc. v. Matrix (U.S.) Inc., 167 F.3d 1261, 1265 (9th Cir. 1999). “Federal jurisdiction must be rejected if there is any doubt as to the right of removal in the first instance.” Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992).

In attempting to invoke this Court’s diversity jurisdiction, Defendant must prove that there is complete diversity of citizenship between the parties and that the amount in controversy exceeds \$75,000. 28 U.S.C. § 1332. To establish citizenship for diversity purposes, a natural person must be a citizen of the United States and be domiciled in a particular state. Kantor v. Wellesley Galleries, Ltd., 704 F.2d 1088, 1090 (9th Cir. 1983). Persons are domiciled in the places they reside with the intent to remain or to which they intend to return. See Kanter v. Warner-Lambert Co., 265 F.3d 853, 857 (9th Cir. 2001). For the purposes of diversity jurisdiction, a corporation is a citizen of any state where it is incorporated and of the state where it has its principal place of business. 28 U.S.C. § 1332(c); see also Indus. Tectonics, Inc. v. Aero Alloy, 912 F.2d 1090, 1092 (9th Cir. 1990). The citizenship of an LLC is the citizenship of its members. See Johnson v. Columbia Props. Anchorage, LP, 437 F.3d 894, 899 (9th Cir. 2006) (“[L]ike a partnership, an LLC is a citizen of every state of which its owners/members are citizens.”); Marseilles Hydro Power, LLC v. Marseilles Land & Water Co., 299 F.3d 643, 652 (7th Cir.

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2002) (“the relevant citizenship [of an LLC] for diversity purposes is that of the members, not of the company”); Handelsman v. Bedford Village Assocs., Ltd. P’ship, 213 F.3d 48, 51-52 (2d Cir. 2000) (“a limited liability company has the citizenship of its membership”); Cosgrove v. Bartolotta, 150 F.3d 729, 731 (7th Cir. 1998); TPS Utilicom Servs., Inc. v. AT & T Corp., 223 F. Supp. 2d 1089, 1101 (C.D. Cal. 2002) (“A limited liability company . . . is treated like a partnership for the purpose of establishing citizenship under diversity jurisdiction”).

The Notice of Removal alleges that plaintiffs Kihagi and Mwangi are both “individual[s] who at all relevant times, including the time of commencement of this action and at the time of this removal, [were] and [are] residing in the State of California, and, on information and belief, [were] at those times . . . citizen[s] of the United States of America whose state of citizenship is California where [they] reside[] and [are] domiciled.” (Notice of Removal ¶¶ 12, 13 (citation omitted).) As the Notice of Removal makes clear, the Complaint alleges only that Kihagi and Mwangi are residents of California. (Compl. ¶ 2, Notice of Removal Ex. A.) Because an individual is not necessarily domiciled where he or she resides, Defendant’s allegations of the citizenship of Kihagi and Mwangi, based only on allegations of residence, are insufficient to establish their citizenship.

As an LLC, plaintiff Zoriall has the citizenship of its members. Defendant alleges “that at all relevant times, including the time of commencement of this action and at the time of this removal, the only members and owners of Zoriall are Plaintiffs Anne Kihagi and/or Christina Mwangi . . . and the state of citizenship of both Plaintiffs Anne Kihagi and Christina Mwangi is California as they are both citizens of the United States of America, and residents of and domiciled in the State of California.” (Notice of Removal ¶ 11.) For the reasons just discussed, Defendant has not established Kihagi’s or Mwangi’s citizenship, and therefore Defendant also fails to establish Zoriall’s citizenship.

“Absent unusual circumstances, a party seeking to invoke diversity jurisdiction should be able to allege affirmatively the actual citizenship of the relevant parties.” Kanter, 265 F.3d at 857; Bradford v. Mitchell Bros. Truck Lines, 217 F. Supp. 525, 527 (N.D. Cal. 1963) (“A petition [for removal] alleging diversity of citizenship upon information and belief is insufficient.”). Defendant’s allegations related to Plaintiffs’ citizenship are insufficient to invoke this Court’s diversity jurisdiction.

For the foregoing reasons, Defendant has failed to satisfy its burden of showing that diversity jurisdiction exists over this action. Accordingly, this action is hereby remanded to Los Angeles County Superior Court, Case No. BC682157, for lack of subject matter jurisdiction. See 28 U.S.C. § 1447(c).

IT IS SO ORDERED.