

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 20-8203 PA (MAAx) Date September 10, 2020

Title Motel Inn, LLC v. 9223-6678 Quebec Inc, et al.

Present: The Honorable PERCY ANDERSON, UNITED STATES DISTRICT JUDGE

T. Jackson

Not Reported

N/A

Deputy Clerk

Court Reporter

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

None

None

Proceedings: IN CHAMBERS — COURT ORDER

Before the Court is a Notice of Removal filed by defendants 9223-6678 Quebec Inc., d.b.a. Nomad Airstream (a.k.a. Custom Airstream), Steven Clement, and Guillaume Langevin (collectively “Defendants”). Defendants assert that this Court has jurisdiction over the action brought against it by plaintiff Motel Inn, LLC (“Plaintiff”) 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, Defendants 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

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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.”); 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 “Defendants are informed and believe[] that, at the time the Complaint was filed and at the time of this Notice, Plaintiff was a Limited Liability Company organized and existing under the laws of the State of California and qualified to do business in California, with its principal place of business in San Luis Obispo County. See Complaint, ¶ 1. For diversity purposes, the citizenship of a limited liability company is determined by the citizenship of its members. . . . Plaintiff’s current Statement of Information on file with the California Secretary of State . . . states Plaintiff has two individual members — Pat Arnold and Damien Mavis — and both reside in San Luis Obispo, California.” (Notice of Removal at 2:14-23 (citations omitted).) As the Notice of Removal alleges, Defendants’ support for their allegations concerning Plaintiff’s citizenship rely on allegations of residence on information and belief. Because an individual is not necessarily domiciled where he or she resides, Defendants’ allegations concerning the citizenship of Plaintiff, based on an allegation of residence, are insufficient to establish Plaintiff’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.”). Indeed, the Statement of Information upon which Defendants rely does not even appear to provide information concerning the residence of either of the alleged members of Plaintiff, and instead lists a business address for them that is identical to Plaintiff’s corporate address. As a result, Defendants’ allegations related to Plaintiff’s citizenship are insufficient to invoke this Court’s diversity jurisdiction.

For the foregoing reasons, Defendants have failed to satisfy their burden of showing that diversity jurisdiction exists over this action. Accordingly, this action is hereby remanded to San Luis Obispo County Superior Court, Case No. 20CV-0351, for lack of subject matter jurisdiction. See 28 U.S.C. § 1447(c).

IT IS SO ORDERED.