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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES – GENERAL**

Case No. SACV 11-999-JST (MLGx)

Date: May 3, 2012

Title: Nanci Nicoli v. John C. Riddell, et al.

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Present: **Honorable JOSEPHINE STATON TUCKER, UNITED STATES DISTRICT JUDGE**

Ellen Matheson

Deputy Clerk

N/A

Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF:      ATTORNEYS PRESENT FOR DEFENDANT:

Not Present

Not Present

**PROCEEDINGS: (IN CHAMBERS) ORDER REMANDING CASE TO  
ORANGE COUNTY SUPERIOR COURT, CASE NO. 30-2011-  
00477325**

The Court may raise the issue of subject matter jurisdiction at any time, sua sponte. *See U.S. Catholic Conference v. Abortion Rights Mobilization*, 487 U.S. 72, 79 (1988). If “the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.” Fed. R. Civ. P. 12(h)(3).

On July 6, 2011, Defendants removed this action on the basis of diversity jurisdiction. (Notice of Removal, Doc. 1.) The Notice of Removal asserts that complete diversity exists between the parties because the Plaintiff, Nanci Nicoli, is a citizen of California, and each of the Defendants, including Niche Cosmetics, LLC (“Niche”), is a citizen of Arizona. (*Id.* at 2.) However, because Niche is a limited liability company, the Court must consider the citizenship of each of its members for purposes of diversity jurisdiction. *See Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006). The undisputed facts in support of Niche’s pending motion for partial summary judgment make clear that Nicoli is a member of Niche. (Nicoli’s Separate Statement of Genuine Issues of Fact ¶ 1, Doc. 74-1.) Therefore, Niche is a citizen of California and diversity jurisdiction is not present. Accordingly, the Court REMANDS this case to the Orange County Superior Court.

Initials of Preparer: enm