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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

10 VERONICA PADILLA,

11 Plaintiff,

12 v.

13 BLUE CLOUD INVESTMENT
14 HOLDINGS LLC,

15 Defendant.

Case No. 1:24-cv-00292-KES-SKO

ORDER TO SHOW CAUSE REGARDING
SUBJECT MATTER JURISDICTION

(Doc. 1)

16 On February 1, 2024, Plaintiff Veronica Padilla commenced this action in Tulare County
17 Superior Court asserting claims under the California Labor Code and a related claim for wrongful
18 termination. (Doc. 1 at 12–33.) On March 8, 2024, Defendant Blue Cloud Investment Holdings,
19 LLC removed this action to federal court based on diversity of citizenship under 28 U.S.C. §1332.
20 (Doc. 1.)

21 For the following reasons, the Court finds Defendant’s Notice of Removal to be deficient
22 and orders Defendant to show cause why this action should not be remanded to Tulare County
23 Superior Court.

24 **I. LEGAL STANDARD**

25 “Federal courts are courts of limited jurisdiction.” *Kokkonen v. Guardian Life Ins. Co. of*
26 *Am.*, 511 U.S. 375, 377 (1994). “They possess only that power authorized by Constitution and
27 statute, which is not to be expanded by judicial decree.” *Id.* (internal citations omitted). “It is to
28

1 be presumed that a cause lies outside this limited jurisdiction, and the burden of establishing the
2 contrary rests upon the party asserting jurisdiction.” *Id.* (internal citations omitted); *see also*
3 *Abrego Abrego v. The Dow Chem. Co.*, 443 F.3d 676, 684 (9th Cir. 2006). Consistent with the
4 limited jurisdiction of federal courts, the removal statute is strictly construed against removal
5 jurisdiction. *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992); *see also* *Sygenta Crop Prot.*
6 *v. Henson*, 537 U.S. 28, 32 (2002); *O’Halloran v. Univ. of Wash.*, 856 F.2d 1375, 1380 (9th Cir.
7 1988). “The ‘strong presumption’ against removal jurisdiction means that the defendant always
8 has the burden of establishing that removal is proper.” *Gaus*, 980 F.2d at 566 (citations omitted);
9 *see also* *Nishimoto v. Federman-Bachrach & Assoc.*, 903 F.2d 709, 712 n.3 (9th Cir. 1990);
10 *O’Halloran*, 856 F.2d at 1380. “Federal jurisdiction must be rejected if there is any doubt as to
11 the right of removal in the first instance.” *Gaus*, 980 F.2d at 566. It is well-established that “a
12 district court’s duty to establish subject matter jurisdiction is not contingent upon the parties’
13 arguments.” *See United Investors Life Ins. Co. v. Waddell & Reed Inc.*, 360 F.3d 960, 966 (9th
14 Cir. 2004). Courts may consider the issue *sua sponte*. *Demery v. Kupperman*, 735 F.2d 1139,
15 1149 n.8 (9th Cir. 1984). Indeed, the Supreme Court has emphasized that “district courts have an
16 ‘independent obligation to address subject-matter jurisdiction *sua sponte*.’” *Grupo Dataflux v.*
17 *Atlas Global Grp., L.P.*, 541 U.S. 567, 593 (2004) (quoting *United States v. S. Cal. Edison Co.*,
18 300 F. Supp. 2d 964, 972 (E.D. Cal. 2004)).

II. ANALYSIS

20 In order to invoke this Court’s diversity jurisdiction, Defendant must demonstrate there is
21 complete diversity of citizenship between the parties and that the amount in controversy exceeds
22 \$75,000. *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 68 (1996); *Cohn v. Petsmart, Inc.*, 281 F.3d 837,
23 839 (9th Cir. 2002); 28 U.S.C. § 1332. “When an action is removed based on diversity, complete
24 diversity must exist at removal.” *Gould v. Mut. Life Ins. Co. of New York*, 790 F.2d 769, 773 (9th
25 Cir. 1986) (citing *Miller v. Grgurich*, 763 F.2d 372, 373 (9th Cir. 1985)). “Federal courts look
26 only to a plaintiff’s pleadings to determine removability.” *Id.* (citing *Self v. Gen. Motors Corp.*,
27 588 F.2d 655, 657 (9th Cir. 1978)). “Diversity is generally determined from the face of the
28 complaint.” *Id.* (citation omitted). “Absent unusual circumstances, a party seeking to invoke

1 diversity jurisdiction should be able to allege affirmatively the actual citizenship of the relevant
2 parties.” *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001).

3 Here, Defendant has failed to meet its burden of demonstrating there is complete diversity
4 of citizenship. As the Notice of Removal recognizes, the citizenship of a limited liability
5 company (“LLC”) is determined by the citizenship of all of its members. *Johnson v. Columbia*
6 *Properties Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006). “[A]n LLC is a citizen of every
7 state of which its owners/members are citizens.” *Id.* Here, while Notice of Removal identifies
8 the sole owner of Defendant as “Blue Cloud Surgery Centers LLC,” and the two members of Blue
9 Cloud Surgery Centers LLC as “Benson Parent, LLC and Devin Larsen,” it does not identify the
10 owners or members of Benson Parent, LLC. The Notice of Removal simply states that Benson
11 Parent LLC “is a Delaware-based company with a principal place of business in Glen Rock,
12 Pennsylvania.” (Doc. 1 at 5.) Accordingly, Defendant has failed to meet its burden to establish
13 this Court’s jurisdiction. *See Lindley Contours, LLC v. AABB Fitness Holdings, Inc.*, 414 F.
14 App’x. 62, 64–65 (9th Cir. 2011) (noting that if a member of an LLC is a limited partnership or
15 LLC, defendants must also identify the citizenship of each member of that limited partnership or
16 LLC).

17 **III. CONCLUSION AND ORDER**

18 For the reasons set forth above, **IT IS HEREBY ORDERED** that Defendant show cause
19 why this action should not be remanded to Tulare County Superior Court. Defendant has
20 **fourteen (14) days from the date this Order is issued** to demonstrate why diversity jurisdiction
21 exists. Defendant must submit competent proof establishing diversity. *See Harris v. Rand*, 682
22 F.3d 846, 851–52 (9th Cir. 2012) (“[T]he district court may properly require a party asserting
23 federal subject matter jurisdiction to establish its jurisdictional allegations by competent proof.”).

24 Plaintiff thereafter has **ten (10) days from the date of service of Defendant’s filing** to
25 file a response, she so chooses. Should Defendant fail to file a response to this Order to Show
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1 Cause, the undersigned will recommend to the assigned district judge that the case be remanded
2 *sua sponte* without further notice to the parties.

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4 IT IS SO ORDERED.

5 Dated: March 5, 2025

6 /s/ Sheila K. Oberto
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UNITED STATES MAGISTRATE JUDGE