

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SHAUNA EMERY and JOSEPH KRAFT, No. 2:10-cv-03270-MCE-JFM
Plaintiffs,
v. ORDER AND MEMORANDUM
GENERAL MOTORS, LLC, and DOE 1
through DOE 10 inclusive,
Defendants.

-----oo0oo-----

Through this action, Plaintiffs seek damages for an alleged violation of the Song-Beverly Consumer Warranty Act in connection with the purchase of a car allegedly manufactured by Defendant. However, Plaintiffs have not pled sufficient facts to establish subject matter jurisdiction.

It is fundamental that federal courts are courts of limited jurisdiction. Vacek v. United States Postal Serv., 447 F.3d 1141, 1145 (9th Cir. 2006). This Court has a duty to ensure that jurisdiction is proper, and may do so sua sponte.

///

1 Spencer Enterprises, Inc. v. U.S., 345 F.3d 683, 687 (9th Cir.
2 2003); see also Fed. R. Civ. P. 12(h)(3). Federal courts are
3 presumed to lack jurisdiction. A-Z Int'l v. Phillips, 323 F.3d
4 1141, 1145 (9th Cir. 2003). As a result, the grounds of
5 diversity jurisdiction must be affirmatively alleged in the
6 pleadings. Amerault v. Intelcom Support Serv., Inc., 16 F. App'x
7 724 (9th Cir. 2001).

8 Plaintiffs assert that jurisdiction is based upon diversity
9 pursuant to 28 U.S.C. § 1332(a). (Compl. ¶ 4.) Section 1332(a)
10 requires complete diversity of citizenship between the parties
11 opposed in interest. Kuntz v. Lamar Corp., 385 F.3d 1177, 1181
12 (9th Cir. 2004). A corporation is a citizen of its state(s) of
13 incorporation and its principal place of business. 28 U.S.C.
14 § 1332(c)(1). However, a limited liability corporation ("LLC")
15 is a citizen of every state in which its members are citizens.
16 Johnson v. Columbia Properties Anchorage, LP, 437 F.3d 894, 899
17 (9th Cir. 2006).

18 General Motors, LLC is the named Defendant in this case.
19 (Compl. 1.) In their Complaint, Plaintiffs allege only
20 Defendant's state of incorporation and principal place of
21 business. (Id.) Because Defendant is an LLC, Plaintiffs must
22 allege the citizenship of all of Defendant's members in their
23 complaint to establish diversity jurisdiction. Dismissal is
24 appropriate as a result of Plaintiffs' failure to properly plead
25 grounds for jurisdiction. See Kim-C1, LLC v. Valent Biosciences
26 Corp., No. 1:10-cv-591-AWI-DLV, 2010 WL 2292289 (E.D. Cal. 2010).

27 ///

28 ///

1 Plaintiffs' Complaint (ECF No. 1) is hereby DISMISSED
2 without prejudice. The Clerk is ordered to close the case.

3 IT IS SO ORDERED.

4 Dated: February 4, 2011

5
6 

7 MORRISON C. ENGLAND, JR.
8 UNITED STATES DISTRICT JUDGE
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28