

1 Jurisdiction is a threshold inquiry that must precede the adjudication of any case before
2 the district court. Morongo Band of Mission Indians v. Cal. State Bd. of Equalization, 858 F.2d
3 1376, 1380 (9th Cir. 1988). Federal courts are courts of limited jurisdiction and may adjudicate
4 only those cases authorized by federal law. Kokkonen v. Guardian Life Ins. Co., 511 U.S. 375,
5 377 (1994); Willy v. Coastal Corp., 503 U.S. 131, 136-37 (1992). “Federal courts are presumed
6 to lack jurisdiction, ‘unless the contrary appears affirmatively from the record.’” Casey v. Lewis,
7 4 F.3d 1516, 1519 (9th Cir. 1993) (quoting Bender v. Williamsport Area Sch. Dist., 475 U.S. 534,
8 546 (1986)).

9 Lack of subject matter jurisdiction may be raised by the court at any time during the
10 proceedings. Attorneys Trust v. Videotape Computer Prods., Inc., 93 F.3d 593, 594-95 (9th Cir.
11 1996). A federal court “ha[s] an independent obligation to address sua sponte whether [it] has
12 subject-matter jurisdiction.” Dittman v. California, 191 F.3d 1020, 1025 (9th Cir. 1999). It is the
13 obligation of the district court “to be alert to jurisdictional requirements.” Grupo Dataflux v.
14 Atlas Global Group, L.P., 541 U.S. 567, 593 (2004). Without jurisdiction, the district court
15 cannot decide the merits of a case or order any relief. See Morongo, 858 F.2d at 1380.

16 It is well established that the statutes governing removal jurisdiction must be “strictly
17 construed against removal.” Libhart v. Santa Monica Dairy Co., 592 F.2d 1062, 1064 (9th Cir.
18 1979) (citing Shamrock Oil & Gas Corp. v. Sheets, 313 U.S. 100, 108 (1941)); see also Syngenta
19 Crop Prot., Inc. v. Henson, 537 U.S. 28, 32 (2002); Provincial Gov’t of Martinduque v. Placer
20 Dome, Inc., 582 F.3d 1083, 1087 (9th Cir. 2009). “Federal jurisdiction must be rejected if there
21 is any doubt as to the right of removal in the first instance.” Gaus v. Miles, Inc., 980 F.2d 564,
22 566 (9th Cir. 1992). “‘The burden of establishing federal jurisdiction falls on the party invoking
23 removal.’” Harris v. Provident Life & Accident Ins. Co., 26 F.3d 930, 932 (9th Cir. 1994)
24 (quoting Gould v. Mut. Life Ins. Co., 790 F.2d 769, 771 (9th Cir.1986)); see also Provincial
25 Gov’t of Martinduque, 582 F.3d at 1087.

26 The basic federal jurisdiction statutes are 28 U.S.C. §§ 1331 and 1332, which confer
27 “federal question” and “diversity” jurisdiction, respectively. Federal jurisdiction may also be
28 conferred by federal statutes regulating specific subject matter. “[T]he existence of federal

1 jurisdiction depends solely on the plaintiff's claims for relief and not on anticipated defenses to
2 those claims." ARCO Env'tl. Remediation, LLC v. Dep't of Health & Env'tl. Quality, 213 F.3d
3 1108, 1113 (9th Cir. 2000).

4 District courts have diversity jurisdiction only over "all civil actions where the matter in
5 controversy exceeds the sum or value of \$75,000, exclusive of interest and costs," and the action
6 is between: "(1) citizens of different States; (2) citizens of a State and citizens or subjects of a
7 foreign state; (3) citizens of different States and in which citizens or subjects of a foreign state are
8 additional parties; and (4) a foreign state . . . as plaintiff and citizens of a State or of different
9 States." 28 U.S.C. § 1332. "To demonstrate citizenship for diversity purposes a party must (a) be
10 a citizen of the United States, and (b) be domiciled in a state of the United States." Lew v. Moss,
11 797 F.2d 747, 749 (9th Cir. 1986). "Diversity jurisdiction requires complete diversity between
12 the parties-each defendant must be a citizen of a different state from each plaintiff." In re
13 Digimarc Corp. Derivative Litigation, 549 F.3d 1223, 1234 (9th Cir. 2008).

14 Moreover, the domestic relations exception "divests the federal courts of power to issue
15 divorce, alimony and child custody decrees." Ankenbrandt v. Richards, 504 U.S. 689, 703
16 (1992). "Even when a federal question is presented, federal courts decline to hear disputes which
17 would deeply involve them in adjudicating domestic matters." Thompson v. Thompson, 798 F.2d
18 1547, 1558 (9th Cir.1986), *aff'd*, 484 U.S. 174 (1988); see also Tree Top v. Smith, 577 F.2d 519
19 (9th Cir. 1978) (declining to exercise jurisdiction over habeas petition seeking custody of child
20 who had been adopted by others). In this regard, courts "traditionally decline to exercise
21 jurisdiction in domestic relations cases when the core issue involves the status of parent and child
22 or husband and wife." Coats v. Woods, 819 F.2d 236, 237 (9th Cir. 1987); see also Peterson v.
23 Babbitt, 708 F.2d 465, 466 (9th Cir. 1983) (same). "For that matter, the whole subject of
24 domestic relations and particularly child custody problems is generally considered a state law
25 matter." Peterson, 708 F.2d at 466.

26 Here, it appears that the court does not have federal question or diversity jurisdiction over
27 this action. Moreover, the core issue involved in this action concerns state law matters pertaining
28 to divorce and child custody. (ECF No. 1 at 4; ECF No. 11 at 6-8.)


1 Accordingly, IT IS HEREBY ORDERED that the April 24, 2017 motion to dismiss (ECF
2 No. 8) is denied without prejudice to renewal.²

3 Also, IT IS HEREBY RECOMMENDED that:

- 4 1. Defendant's February 22, 2017 motion to proceed in forma pauperis (ECF No. 2) be
5 denied; and
6 2. This matter be summarily remanded to the Placer County Superior Court.

7 These findings and recommendations are submitted to the United States District Judge
8 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
9 after being served with these findings and recommendations, any party may file written
10 objections with the court and serve a copy on all parties. Such a document should be captioned
11 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections
12 shall be served and filed within fourteen days after service of the objections. The parties are
13 advised that failure to file objections within the specified time may waive the right to appeal the
14 District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

15 Dated: May 22, 2017

16
17
18 
19 DEBORAH BARNES
20 UNITED STATES MAGISTRATE JUDGE

21
22
23
24 DLB:6
25 DB/orders/orders.pro se/powell0392.jx.f&rs

26
27 _____
28 ² In the event the assigned District Judge does not adopt these findings and recommendations,
defendant may re-notice the motion to dismiss for hearing before the undersigned.