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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL POWELL,
Plaintiff,
v.
TOMERY DARLING,
Defendant.

No. 2:17-cv-0392 KJM DB PS

ORDER TO SHOW CAUSE

On February 22, 2017, defendant Tomery Darling filed a notice of removal of this action from the Placer County Superior Court. (ECF No. 1.) Defendant Darling is proceeding pro se. Accordingly, the matter has been referred to the undersigned for all purposes encompassed by Local Rule 302(c)(21).

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

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

8 It is well established that the statutes governing removal jurisdiction must be “strictly
9 construed against removal.” Libhart v. Santa Monica Dairy Co., 592 F.2d 1062, 1064 (9th Cir.
10 1979) (citing Shamrock Oil & Gas Corp. v. Sheets, 313 U.S. 100, 108 (1941)); see also Syngenta
11 Crop Prot., Inc. v. Henson, 537 U.S. 28, 32 (2002); Provincial Gov’t of Martinduque v. Placer
12 Dome, Inc., 582 F.3d 1083, 1087 (9th Cir. 2009). “Federal jurisdiction must be rejected if there
13 is any doubt as to the right of removal in the first instance.” Gaus v. Miles, Inc., 980 F.2d 564,
14 566 (9th Cir. 1992). ““The burden of establishing federal jurisdiction falls on the party invoking
15 removal.”” Harris v. Provident Life & Accident Ins. Co., 26 F.3d 930, 932 (9th Cir. 1994)
16 (quoting Gould v. Mut. Life Ins. Co., 790 F.2d 769, 771 (9th Cir.1986)); see also Provincial
17 Gov’t of Martinduque, 582 F.3d at 1087.

18 The basic federal jurisdiction statutes are 28 U.S.C. §§ 1331 and 1332, which confer
19 “federal question” and “diversity” jurisdiction, respectively. Federal jurisdiction may also be
20 conferred by federal statutes regulating specific subject matter. “[T]he existence of federal
21 jurisdiction depends solely on the plaintiff’s claims for relief and not on anticipated defenses to
22 those claims.” ARCO Env’tl. Remediation, LLC v. Dep’t of Health & Env’tl. Quality, 213 F.3d
23 1108, 1113 (9th Cir. 2000).


24 District courts have diversity jurisdiction only over “all civil actions where the matter in
25 controversy exceeds the sum or value of \$75,000, exclusive of interest and costs,” and the action
26 is between: “(1) citizens of different States; (2) citizens of a State and citizens or subjects of a
27 foreign state; (3) citizens of different States and in which citizens or subjects of a foreign state are
28 additional parties; and (4) a foreign state . . . as plaintiff and citizens of a State or of different

1 States.” 28 U.S.C. § 1332. “To demonstrate citizenship for diversity purposes a party must (a) be
2 a citizen of the United States, and (b) be domiciled in a state of the United States.” Lew v. Moss,
3 797 F.2d 747, 749 (9th Cir. 1986). “Diversity jurisdiction requires complete diversity between
4 the parties-each defendant must be a citizen of a different state from each plaintiff.” In re
5 Digimarc Corp. Derivative Litigation, 549 F.3d 1223, 1234 (9th Cir. 2008).

6 Here, it appears that plaintiff’s complaint concerns only state law matters pertaining to
7 divorce and child custody.

8 Accordingly, IT IS HEREBY ORDERED that within twenty-one days of the date of this
9 order defendant shall show cause in writing as to why this action should not be summarily
10 remanded to the Placer County Superior Court due to a lack of subject matter jurisdiction.

11 Dated: February 27, 2017

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14 DEBORAH BARNES
15 UNITED STATES MAGISTRATE JUDGE
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