

1 I. Jurisdiction

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

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

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

23 District courts have diversity jurisdiction only over “all civil actions where the matter in
24 controversy exceeds the sum or value of \$75,000, exclusive of interest and costs,” and the action
25 is between: “(1) citizens of different States; (2) citizens of a State and citizens or subjects of a
26 foreign state; (3) citizens of different States and in which citizens or subjects of a foreign state are
27 additional parties; and (4) a foreign state . . . as plaintiff and citizens of a State or of different
28 States.” 28 U.S.C. § 1332. “To demonstrate citizenship for diversity purposes a party must (a) be

1 a citizen of the United States, and (b) be domiciled in a state of the United States.” Lew v. Moss,
2 797 F.2d 747, 749 (9th Cir. 1986). “Diversity jurisdiction requires complete diversity between
3 the parties—each defendant must be a citizen of a different state from each plaintiff.” In re
4 Digimarc Corp. Derivative Litigation, 549 F.3d 1223, 1234 (9th Cir. 2008).

5 Here, defendant’s notice of removal asserts that this court “has original jurisdiction over
6 this action pursuant to 28 U.S.C. § 1333.” (Rem. Not. (ECF No. 1) at 3.) 28 U.S.C. § 1333,
7 however, provides district courts with original jurisdiction over actions concerning admiralty or
8 maritime jurisdiction or “[a]ny prize brought into the United States and all proceedings for the
9 condemnation of property taken as a prize.” Defendant here is attempting to remove an
10 inspection warrant obtained by plaintiff after a state court judge found reasonable cause to believe
11 defendant’s real property violated provisions of the Sacramento City Code. (Ex. A (ECF No. 1-1)
12 at 1.)

13 In this regard, this action does not concern admiralty, maritime jurisdiction, or a prize
14 brought into the United States. Defendant’s notice of removal does allege violations of federal
15 statutes and “the Fourth Amendment to the Constitution of the United States of America.” (Rem.
16 Not. (ECF No. 1) at 2.) However, “the presence or absence of federal-question jurisdiction is
17 governed by the well-pleaded complaint rule, which provides that federal jurisdiction exists only
18 when a federal question is presented on the face of the plaintiff’s properly pleaded complaint.”
19 Dennis v. Hart, 724 F.3d 1249, 1252 (9th Cir. 2013) (quotation omitted).

20 For the reasons stated above, the undersigned finds that the defendant has failed to meet
21 the burden of establishing a basis for federal jurisdiction over this action.

22 II. Motion to Consolidate

23 Motions to consolidate are governed by Rule 42 of the Federal Rules of Civil Procedure
24 (“Rule”). In relevant part, Rule 42 provides that if “actions before the court involve a common
25 question of law or fact” then “the court may: (1) join for hearing or trial any or all matters at issue
26 in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost
27 or delay.” “The district court has broad discretion [] to consolidate cases pending in the same
28 district.” Inv’rs Research Co. v. U.S. Dist. Court for Cent. Dist. of California, 877 F.2d 777, 777

1 (9th Cir. 1989).

2 The court, in analyzing whether to grant the motion to consolidate, “weighs the saving of
3 time and effort consolidation would produce against any inconvenience, delay, or expense that it
4 would cause.” Huene v. United States, 743 F.2d 703, 704 (9th Cir. 1984). Consolidation is not
5 appropriate where it results in “inefficiency, inconvenience, or unfair prejudice to a party.”
6 E.E.O.C. v. HBE Corp., 135 F.3d 543, 551 (8th Cir. 1998) (citing Fed. R. Civ. P. 42(b)).

7 Here, defendant seeks to consolidate this action with two other cases: No. 2:18-0150 JAM
8 AC PS and No. 2:18-cv-0333 MCE GGH PS. In case No. 2:18-cv-0150 JAM AC, the assigned
9 Magistrate Judge denied an identical motion to consolidate, stating:

10 . . . upon review of the allegedly related cases (2:18-cv-00333-
11 MCE-GGH and 2:17-cv-02029-JAM-DB) the undersigned finds no
12 reason for consolidation. Each of the allegedly related cases was
13 removed by plaintiffs from state court and motions to remand are
pending in each. There is no indication that the issues in each of
these cases are intertwined such that the separate resolution of each
case would lead to inconsistent judgments.

14 (No. 2:18-cv-0150 JAM AC PS, May 18, 2018 Amended Order and Findings and
15 Recommendations).

16 The undersigned finds this reasoning persuasive and adopts it in this case. Moreover, as
17 noted above the undersigned will recommend that this action be summarily remanded based on a
18 lack of jurisdiction. Accordingly, at this time, defendant’s motion to consolidate will be denied
19 without prejudice to renewal.

20 CONCLUSION

21 Accordingly, IT IS HEREBY ORDERED that defendant’s April 4, 2018 motion to
22 consolidate (ECF No. 9) is denied without prejudice to renewal.²

23 IT IS ALSO HEREBY RECOMMENDED that this action be summarily remanded to the
24 Sacramento County Superior Court and that this case be closed.

25 These findings and recommendations will be submitted to the United States District Judge
26

27 ² In this regard, in the event the assigned District Judge does not adopt these findings and
28 recommendation and this action is not remanded to the Sacramento County Superior Court,
defendant may bring a renewed motion to consolidate.

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

8 Dated: May 22, 2018

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12 DEBORAH BARNES
13 UNITED STATES MAGISTRATE JUDGE
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