



1 377 (1994); Willy v. Coastal Corp., 503 U.S. 131, 136-37 (1992). “Federal courts are presumed  
2 to lack jurisdiction, ‘unless the contrary appears affirmatively from the record.’” Casey v. Lewis,  
3 4 F.3d 1516, 1519 (9th Cir. 1993) (quoting Bender v. Williamsport Area Sch. Dist., 475 U.S. 534,  
4 546 (1986)).

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

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


18 District courts have diversity jurisdiction only over “all civil actions where the matter in  
19 controversy exceeds the sum or value of \$75,000, exclusive of interest and costs,” and the action  
20 is between: “(1) citizens of different States; (2) citizens of a State and citizens or subjects of a  
21 foreign state; (3) citizens of different States and in which citizens or subjects of a foreign state are  
22 additional parties; and (4) a foreign state . . . as plaintiff and citizens of a State or of different  
23 States.” 28 U.S.C. § 1332. “To demonstrate citizenship for diversity purposes a party must (a) be  
24 a citizen of the United States, and (b) be domiciled in a state of the United States.” Lew v. Moss,  
25 797 F.2d 747, 749 (9th Cir. 1986). “Diversity jurisdiction requires complete diversity between  
26 the parties—each defendant must be a citizen of a different state from each plaintiff.” In re  
27 Digimarc Corp. Derivative Litigation, 549 F.3d 1223, 1234 (9th Cir. 2008).

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1 Here, defendant is attempting to remove an “INSPECTION WARRANT FOR  
2 PURPOSES OF ABATEMENT; FORCIBLE ENTRY; AND INSPECTION IN ABSENCE OF  
3 OWNER OR OCCUPANT AUTHORIZED.” (ECF No. 1-1.) In this regard, although defendant  
4 asserts that plaintiff has violated his rights under “the Fourth Amendment” it appears that  
5 plaintiff’s complaint concerns only a state law municipal code enforcement matter. (ECF No. 1 at  
6 2.) Moreover, it is readily apparent that diversity jurisdiction is lacking.

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

10 Dated: October 5, 2017

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13 DEBORAH BARNES  
14 UNITED STATES MAGISTRATE JUDGE  
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