



1 business in Illinois and New York. (See FAC ¶¶ 3-4, 10). Plaintiffs do not, however,  
2 specify an amount in controversy.

3 **DISCUSSION**

4 The issue of subject matter jurisdiction may be raised unilaterally by the district court  
5 at any stage of the proceedings. See, e.g., Snell v. Cleveland, 316 F.3d 822, 826 (9th Cir.  
6 2002) (“Federal Rule of Civil Procedure 12(h)(3) provides that a court may raise the  
7 question of subject matter jurisdiction, sua sponte, at any time during the pendency of the  
8 action . . .”). If the court determines it lacks subject matter jurisdiction, the court must  
9 dismiss the action. Fed. R. Civ. P. 12(h)(3).

10 The proponent of federal jurisdiction bears the burden of establishing all  
11 jurisdictional prerequisites. See Abrego Abrego v. The Dow Chem. Co., 443 F.3d 676, 685  
12 (9th Cir. 2006) (holding CAFA did not change rule requiring proponent of federal jurisdiction  
13 to establish basis therefor). To establish federal jurisdiction under CAFA, plaintiffs, as the  
14 proponents of jurisdiction, must plead facts sufficient to demonstrate that the aggregate  
15 amount in controversy exceeds \$5,000,000, that class membership numbers at least one  
16 hundred, and that at least one class member is diverse from at least one defendant. 28  
17 U.S.C. § 1332(d)(2), (d)(5).

18 Although plaintiffs allege facts sufficient to satisfy the latter two requirements,  
19 specifically, the number of class members and diversity of citizenship, plaintiffs, as noted,  
20 have included in the FAC no allegation specifying the amount in controversy. Nor may the  
21 Court exercise jurisdiction based on its own speculation as to the amount in controversy.  
22 See Lowdermilk v. U.S. Bank Nat'l Ass'n, 479 F.3d 994, 1002 (9th Cir. 2007) (noting court  
23 was “left . . . to speculate as to the size of the class, the amount of unpaid wages owed due  
24 to the rounding policy, and whether or not members of the class qualify for penalty wages”;  
25 holding “we cannot base our jurisdiction on . . . speculation and conjecture”).

26 Accordingly, plaintiffs are hereby ORDERED TO SHOW CAUSE, in writing and no  
27 later than September 22, 2011, why the above-titled action should not be dismissed for lack  
28 of subject matter jurisdiction.

1       In light of the above, the time for defendant to respond to the FAC is hereby  
2 EXTENDED to October 13, 2011.

3       **IT IS SO ORDERED.**

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5       Dated: September 8, 2011

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*Maxine M. Chesney*  
MAXINE M. CHESNEY  
United States District Judge