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8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN FRANCISCO DIVISION**

11 JBR, INC., a California corporation, doing  
12 business as ROGERS FAMILY COMPANY,

13 Plaintiff,

14 v.

15 CAFÉ DON PACO, INC.; ALVARO  
16 MONTEALGRE, aka ALVARO E.  
17 MONTEALEGRE RIVAS; ROBERTO  
18 BENDAÑA, aka ROBERTO BENDAÑA  
19 McEWAN,

20 Defendants.

Case No. 12-cv-02377 NC

**ORDER TO SHOW CAUSE AND  
FOR FURTHER BRIEFING**

Re: Dkt. No. 40

21 The Court is prepared to issue its report and recommendation as to plaintiff's motion  
22 for default judgment. However, two impediments remain. First, plaintiff must show cause  
23 why this action should not be dismissed for lack of subject matter jurisdiction, because  
24 plaintiff has failed to allege that defendant Montealegre is a *citizen* of another state and thus  
25 diverse from plaintiff. *See* Dkt. No. 1 at ¶ 4 (alleging defendant Montealegre "is a resident  
26 of Texas."); *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001) ("The  
27 natural person's state citizenship is then determined by her state of domicile, not her state of  
28 residence. A person's domicile is her permanent home, where she resides with the intention  
to remain or to which she intends to return.").

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FURTHER BRIEFING

1 Second, plaintiff's counsel must provide support showing that his hourly rate is  
2 reasonable. *See Schwarz v. Sec'y of Health & Human Servs.*, 73 F.3d 895, 908 (9th Cir.  
3 1995) ("To inform and assist the court in the exercise of its discretion, [t]he fee applicant  
4 has the burden of producing satisfactory evidence, in addition to the affidavits of its  
5 counsel, that the requested rates are in line with those prevailing in the community for  
6 similar services of lawyers of reasonably comparable skill and reputation."). Plaintiff's  
7 counsel may do so by providing affidavits of other counsel with similar backgrounds and  
8 rates, by pointing to cases from this District awarding similar rates to attorneys with  
9 comparable backgrounds, or by showing that the Court has previously awarded plaintiff's  
10 counsel a similar rate.

11 Plaintiff must respond to the order to show cause and submit counsel's declaration  
12 supporting his hourly rate for attorney's fees, within fourteen days of this order.

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IT IS SO ORDERED.

Date: June 6, 2014



Nathanael M. Cousins  
United States Magistrate Judge