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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**

Re: Dkt. No. 59

21 Plaintiff must show cause why this action should not be dismissed for lack of subject  
22 matter jurisdiction, because plaintiff has failed to allege that defendant Montealegre was  
23 diverse from plaintiff at the time this action was initiated. Despite explicitly instructing  
24 plaintiff that it could only amend the complaint if it could allege that “Montealegre [was] an  
25 alien or citizen of a diverse state at the time of initiating the lawsuit, not at an earlier or later  
26 time,” Dkt. No. 58 at 2, plaintiff has instead amended the complaint to allege that  
27 Montealegre “is a citizen of Nicaragua.” Dkt. No. 59 at ¶ 4. The Court must assess  
28 whether diversity existed at the time plaintiff initiated this lawsuit, not whether diversity  
existed on July 17, 2014, when plaintiff amended its complaint. *See Grupo Dataflux v.*

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ORDER TO SHOW CAUSE

1 *Atlas Global Grp., L.P.*, 541 U.S. 567, 570 (2004) (“the jurisdiction of the court depends  
2 upon the state of things at the time of the action brought”) (quoting *Mollan v. Torrance*, 22  
3 U.S. 537, 539 (1824)).

4 Therefore, within seven days of this order, plaintiff must show cause why its first  
5 amended complaint should not be dismissed for lack of subject matter jurisdiction.

6 IT IS SO ORDERED.

7 Date: July 29, 2014



8  
9 Nathanael M. Cousins  
United States Magistrate Judge