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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA

6 ANA BELEN HAM,
7 Plaintiff,

8 v.

9 DE WAFELBAKKERS, LLC,
10 Defendant.
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Case No. 14-cv-01462-JST

**ORDER TO SHOW CAUSE WHY THE
COMPLAINT SHOULD NOT BE
DISMISSED FOR LACK OF SUBJECT
MATTER JURISDICTION; VACATING
MOTION HEARING AND DENYING
MOTION TO DISMISS WITHOUT
PREJUDICE**

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13 Plaintiff Ana Belen Ham (“Plaintiff”) states in her complaint that “[j]urisdiction is proper
14 in this Court under 28 U.S.C. § 1332 (diversity jurisdiction) and/or 28 U.S.C. § 1331 (controversy
15 arising under United States law).” Complaint for Damages, Injunctive Relief and Restitution
16 (“Complaint”) ¶ 6, ECF No. 1.

17 Notwithstanding Plaintiff’s invocation of 28 U.S.C. § 1331, the complaint does not bring
18 any federal cause of action. As for diversity jurisdiction, while the complaint discusses the state in
19 which Plaintiff is a “resident,” ¶ 8, and alleges that Defendant De Wafelbakkers, LLC
20 (“Defendant”) is an “Arkansas corporation,” ¶ 18, the complaint does not actually allege the
21 parties’ state citizenships. The complaint does not address Plaintiff’s domicile, and neither does it
22 address why Defendant is only a citizen only of Arkansas for diversity purposes. “[A]n LLC is a
23 citizen of every state of which its owners/members are citizens.” Johnson v. Columbia Properties
24 Anchorage, LP, 437 F.3d 894, 899 (9th Cir. 2006). Finally, nowhere in the complaint does
25 Plaintiff even allege that the requisite amount in controversy is satisfied, to say nothing of meeting
26 her burden to explain the basis of her conclusion that it is.

27 “[F]ederal courts have a continuing ‘independent obligation to determine whether subject-
28 matter jurisdiction exists.’” Leeson v. Transamerica Disability Income Plan, 671 F.3d 969, 976, n.

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12 (9th Cir. 2012) (quoting Arbaugh v. Y & H Corp., 546 U.S. 500, 514 (2006)). “[T]he party asserting federal subject matter jurisdiction bears the burden of proving its existence.” Chandler v. State Farm Mut. Auto. Ins. Co., 598 F.3d 1115, 1122 (9th Cir. 2010).

Therefore, Plaintiff is hereby ORDERED TO SHOW CAUSE why this action should not be dismissed for lack of subject matter jurisdiction. Plaintiff is ordered to file a written response to this order no later than fourteen days from the date of this order. Defendant may, but is not required, to file any response to this order by that same date.

The Court hereby VACATES the hearing on Defendant’s Motion to Dismiss, and DENIES the motion WITHOUT PREJUDICE. ECF No. 14. If it appears that the court has jurisdiction over this action, the court will so advise the parties, at which point Defendant may re-notice the matter for hearing. The court will then decide the motion on the currently filed papers.

IT IS SO ORDERED.

Dated: July 2, 2014



JON S. TIGAR
United States District Judge