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

10
11 SYNnex CORPORATION, a Delaware
12 Corporation,

13 Plaintiff,

14 v.

15 THERA MARIE FREEMAN, an individual;
16 also known as THERA MARIE SARTORIS,
17 an individual; DAVID FREEMAN, an
18 individual; individually & collectively doing
19 business as PRIORITY COMPUTER
20 SYSTEMS; and DOES 1 to 50, inclusive,

21 Defendants.

Case No. 14-cv-01606 NC

ORDER TO SHOW CAUSE

Re: Dkt. No. 1

22 Plaintiff Synnex Corporation brings this action for breach of contract against
23 defendants Thera Marie Freeman and David Freeman, individually and collectively doing
24 business as Priority Computer Systems. Dkt. No. 1. The complaint asserts that this Court
25 has subject matter jurisdiction based on diversity under 28 U.S.C. § 1332. *Id.* ¶ 4.
26 However, the complaint does not contain sufficient allegations to establish the citizenship of
27 the defendants for diversity purposes.

28 Federal courts are courts of limited jurisdiction and are presumptively without
jurisdiction. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). A
federal court may dismiss an action on its own motion if it finds that it lacks subject matter

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1 jurisdiction over the action. *Fiedler v. Clark*, 714 F.2d 77, 78-79 (9th Cir. 1983); *see also*
2 Fed. R. Civ. P. 12(h)(3) (“If the court determines at any time that it lacks subject-matter
3 jurisdiction, the court must dismiss the action.”).

4 District courts have diversity jurisdiction over “all civil actions where the matter in
5 controversy exceeds the sum or value of \$75,000, exclusive of interest and costs” and the
6 action is between: “(1) citizens of different States; (2) citizens of a State and citizens or
7 subjects of a foreign state . . . ; (3) citizens of different States and in which citizens or
8 subjects of a foreign state are additional parties; and (4) a foreign state . . . as plaintiff and
9 citizen of a State or of different States.” 28 U.S.C. § 1332. A natural person’s state
10 citizenship is determined by her state of domicile. *Kanter v. Warner-Lambert Co.*, 265 F.3d
11 853, 857 (9th Cir. 2001). “A person’s domicile is her permanent home, where she resides
12 with the intention to remain or to which she intends to return. . . . A person residing in a
13 given state is not necessarily domiciled there, and thus is not necessarily a citizen of that
14 state.” *Id.*

15 The complaint here alleges that defendant Thera Marie Freeman, an individual, “is
16 the owner of PRIORITY COMPUTER SYSTEMS and the wife of Defendant, DAVID
17 FREEMAN whose principal place of business is located at 3208 Peach Street, Erie, PA,
18 16508.” Dkt. No. 1 ¶ 2. The complaint further alleges that David Freeman, an individual,
19 “is the husband of Defendant, THERA MARIE FREEMAN, . . . whose principal place of
20 business is located at 3208 Peach Street, Erie, PA 16508.” *Id.* ¶ 3. The complaint fails to
21 allege the domicile or citizenship of Thera Marie Freeman and David Freeman for diversity
22 purposes.

23 Because the complaint does not contain sufficient allegations to establish that there is
24 complete diversity of citizenship between plaintiff and all defendants, by July 16, 2014,
25 plaintiff must amend its complaint to plead an adequate basis for diversity jurisdiction, or
26 show cause in writing why this action should not be dismissed for lack of federal subject
27 matter jurisdiction. If plaintiff is unable to allege the citizenship of all defendants without
28 conducting discovery on this issue, plaintiff should so indicate in its response to the order


1 to show cause.

2 Plaintiff must also consent or decline the jurisdiction of a magistrate judge by July
3 16, 2014. *See* attached consent/declination form.

4 The initial case management conference is continued from July 16 to July 30, 2014, at
5 10:00 a.m. in Courtroom A, 15th Floor, U.S. District Court, 450 Golden Gate Avenue, San
6 Francisco, California.

7 IT IS SO ORDERED.

8 Date: June 27, 2014


Nathanael M. Cousins
United States Magistrate Judge