

1  
2  
3  
4  
5  
6  
7 **UNITED STATES DISTRICT COURT**  
8 **NORTHERN DISTRICT OF CALIFORNIA**  
9 **SAN FRANCISCO DIVISION**

10  
11 FALCONPOINT UNLIMITED, LLC, a  
12 Delaware limited liability company,

13 Plaintiff,

14 v.

15 KEVIN J. SENN, ESQ., an individual,  
16 SENN LAW, a professional corporation,  
17 RANDOLPH MCCONVILLE, an  
18 individual; MONA MCCONVILLE, an  
19 individual; DOES 1 through 50,

20 Defendants.

Case No. 14-cv-02342 NC

**ORDER TO SHOW CAUSE**

Re: Dkt. No. 1

21 Plaintiff Falconpoint Unlimited, LLC brings this action for fraud and breach of  
22 contract against defendants Randolph and Mona McConville, Kevin J. Senn, and Senn Law.  
23 Dkt. No. 1. The complaint asserts that this Court has subject matter jurisdiction based on  
24 diversity under 28 U.S.C. § 1332(a). *Id.* ¶ 12. However, the complaint does not contain  
25 sufficient allegations to establish the citizenship of the parties for diversity purposes.

26 Federal courts are courts of limited jurisdiction and are presumptively without  
27 jurisdiction. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). A  
28 federal court may dismiss an action on its own motion if it finds that it lacks subject matter  
jurisdiction over the action. *Fiedler v. Clark*, 714 F.2d 77, 78-79 (9th Cir. 1983); *see also*

Case No. 14-cv-02342 NC  
ORDER TO SHOW CAUSE

1 Fed. R. Civ. P. 12(h)(3) (“If the court determines at any time that it lacks subject-matter  
2 jurisdiction, the court must dismiss the action.”).

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

14 The complaint here alleges that Defendant Kevin J. Senn, Esq. is “an individual  
15 residing in the County of Contra Costa, California.” Dkt. No. 1 ¶ 7. The complaint further  
16 alleges that defendants Randolph and Mona McConville are individuals “residing in the  
17 State of Nevada.” *Id.* ¶¶ 9-10. Because the complaint only alleges the residence and not  
18 the domicile or citizenship of the individual defendants, it is insufficient to establish  
19 diversity.

20 Furthermore, the diversity statute provides that “a corporation shall be deemed to be a  
21 citizen of every State and foreign state by which it has been incorporated and of the State or  
22 foreign state where it has its principal place of business.” 28 U.S.C. § 1332(c)(1). Unlike a  
23 corporation, a partnership and an LLC are treated for purposes of diversity as citizens of  
24 every state of which their owners/members are citizens. *See Johnson v. Columbia*  
25 *Properties Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006); *Cosgrove v. Bartolotta*, 150  
26 F.3d 729, 731 (7th Cir. 1998). Moreover, if any member of a partnership or an LLC is itself  
27 a partnership or association (or another LLC), the Court needs to know the citizenship of  
28 each “sub-member” as well. *V & M Star, LP v. Centimark Corp.*, 596 F.3d 354, 356 (6th

1 Cir. 2010).

2 The complaint here alleges that plaintiff Falconpoint is a “Delaware limited liability  
3 company with its principal place of business in Boca Raton, Florida. It is wholly-owned  
4 and managed by Woodbridge Baric.” Dkt. No. 1 ¶ 5. The complaint further alleges that  
5 Woodbridge is “a Delaware limited liability company with its principal place of business in  
6 Boca Raton, Florida.” *Id.* ¶ 6. The complaint fails to allege the citizenship of the  
7 members, and any sub-members, of Woodbridge.

8 Because the complaint does not contain sufficient allegations to establish that there is  
9 complete diversity of citizenship between plaintiff and all defendants, by July 18, 2014,  
10 plaintiff must amend its complaint to plead an adequate basis for diversity jurisdiction, or  
11 show cause in writing why this action should not be dismissed for lack of federal subject  
12 matter jurisdiction. If plaintiff is unable to allege the citizenship of all defendants without  
13 conducting discovery on this issue, plaintiff should so indicate in its response to the order  
14 to show cause.

15 Plaintiff must also consent or decline the jurisdiction of a magistrate judge by July  
16 18, 2014. *See* attached consent/declination form.

17 IT IS SO ORDERED.

18 Date: June 27, 2014

19   
20 \_\_\_\_\_  
21 Nathanael M. Cousins  
22 United States Magistrate Judge  
23  
24  
25  
26  
27  
28