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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SEPHORA USA, INC.,
Plaintiff,

v.

PALMER, REIFLER & ASSOCIATES,
P.A.,
Defendant.

Case No. [15-cv-05750-JCS](#)

**ORDER TO SHOW CAUSE
REGARDING DIVERSITY
JURISDICTION**

Plaintiff Sephora USA, Inc. brings this action under the federal diversity jurisdiction statute, 28 U.S.C. § 1332, which requires complete diversity of citizenship. Sephora alleges that it is a Delaware corporation with its principal place of business in California, and that Defendant Palmer, Reifler & Associates, P.A. (“PRA”) is a Florida professional association with its principal place of business in Florida. Compl. (dkt. 1) ¶¶ 3–4. PRA admits the latter allegations. Answer (dkt. 18) ¶ 4. Although not discussed in PRA’s pending Motion for Judgment on the Pleadings, PRA’s Answer includes as an affirmative defense the assertion that this Court “lacks jurisdiction over this case and controversy.” Answer at 4 (first affirmative defense). A defect in subject matter jurisdiction cannot be waived.

The nature of PRA’s objection to the Court’s jurisdiction over the case is not clear. One conceivable argument might be that PRA should be treated as a partnership for the purpose of diversity jurisdiction, and therefore as a citizen of each state of which one of its members is a citizen. Accordingly, PRA is ORDERED to file a declaration in the record no later than Wednesday, May 11, listing each state of which at least one of its partners, members, or the equivalent is a citizen. If any such person is a citizen of Delaware or California, the Court will

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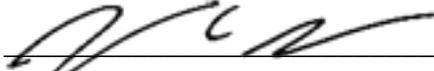
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set a schedule for further briefing to address the appropriate method of determining the citizenship of Florida professional associations.

IT IS SO ORDERED.

Dated: May 9, 2016



JOSEPH C. SPERO
Chief Magistrate Judge