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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CAPELLI ENTERPRISES, INC., et al.,
Plaintiffs,
v.
FANTASTIC SAMS SALONS
CORPORATION, et al.,
Defendants.

Case No. [5:16-cv-03401-EJD](#)
ORDER TO SHOW CAUSE

Plaintiffs Capelli Enterprises Inc., Nameer Jaleel and Aseel Issa (“Plaintiffs”) commenced the instant action directly in this court on June 17, 2016, against Defendants Fantastic Sams Salons Corporation and Fantastic Sams Franchise Corporation (“Defendants”), and filed a First Amended Complaint (“FAC”) on June 20, 2016, in which Plaintiffs assert only one claim against Defendants under the Declaratory Judgment Act, 28 U.S.C. §2201 et seq. Dkt. Nos. 1, 6. As is its obligation, this court has reviewed the FAC to determine whether Plaintiffs included allegations sufficient to establish federal jurisdiction and has been guided by the principles that govern such an inquiry. See Henderson v. Shinseki, 562 U.S. 428, 434 (2011) (“[F]ederal courts have an independent obligation to ensure that they do not exceed the scope of their jurisdiction, and therefore they must raise and decide jurisdictional questions that the parties either overlook or elect not to press.”); see also Mashiri v. Dep’t of Educ., 724 F.3d 1028, 1031 (9th Cir. 2013) (“[F]ederal courts have a continuing, independent obligation to determine whether subject matter jurisdiction exists.”). In short, they have not.

To begin, the court is mindful that, in contrast to state courts, “[f]ederal courts are courts of limited jurisdiction.” Kokkonen v. Guardian Life Ins. Co of Am., 511 U.S. 375, 377 (1994).

1 Federal jurisdiction can generally arise in two ways: (1) from the presence of a federal question, or
2 (2) from diversity of the parties. 28 U.S.C. §§ 1331, 1332.

3 For jurisdiction based on a federal question under § 1331, the court looks to the face of a
4 “well-pleaded complaint” to determine whether a cause of action is created by federal law or
5 whether the plaintiff’s right to relief necessarily depends on the resolution of a substantial question
6 of federal law. Christianson v. Colt Indus. Operating Corp., 486 U.S. 800, 808 (1988) (citing
7 Franchise Tax Bd. of California v. Constr. Laborers Vacation Trust, 463 U.S. 1, 27-28 (1983)).
8 “Under the longstanding well-pleaded complaint rule . . . a suit ‘arises under’ federal law ‘only
9 when the plaintiff’s statement of his own cause of action shows that it is based upon [federal
10 law].’” Vaden v. Discover Bank, 556 U.S. 49, 60 (2009) (quoting Louisville & Nashville R. Co.
11 v. Mottley, 211 U.S. 149, 152 (1908)). Factual allegations, and not labels, are determinative of
12 whether a cause of action actually presents a federal question. See Labram v. Havel, 43 F.3d 918,
13 920 (4th Cir. 1995).

14 For subject matter jurisdiction to arise on the basis of diversity under § 1332, “there must
15 be complete diversity of citizenship between the parties opposed in interest.” Kuntz v. Lamar
16 Corp., 385 F.3d 1177, 1181 (9th Cir. 2004). The amount in controversy must also exceed
17 \$75,000. Naffe v. Frey, 789 F.3d 1030, 1039 (9th Cir. 2015). For jurisdictional purposes,
18 individuals are citizens of their states of domicile. Kanter v. Warner-Lambert Co., 265 F.3d 853,
19 857 (9th Cir. 2001) (“The natural person’s state citizenship is [] determined by her state of
20 domicile, not her state of residence.”). In contrast, “[a] corporation is a citizen of (1) the state
21 under whose laws it is organized or incorporated; and (2) the state of its ‘principal place of
22 business.’” Davis v. HSBC Bank Nev., N.A., 557 F.3d 1026, 1028 (9th Cir. 2008). “Absent
23 unusual circumstances, a party seeking to invoke diversity jurisdiction should be able to allege
24 affirmatively the actual citizenship of the relevant parties” in order to confirm that all parties are
25 diverse. Kanter, 265 F.3d at 857.

26 In addition, the court observes that it must look to the FAC’s jurisdictional allegations
27 because “[a] party invoking the federal court’s jurisdiction has the burden of proving the actual

1 existence of subject matter jurisdiction.” Thompson v. McCombe, 99 F.3d 352, 353 (9th Cir.
2 1996). To that end, Federal Rule of Civil Procedure 8 requires the plaintiff to provide “a short and
3 plain statement of the grounds for the court’s jurisdiction.”

4 Here, Plaintiffs allege in the FAC that jurisdiction is invoked “under the provisions” of §
5 28 U.S.C. § 1332(a)(1), and go on to state that they seek collection of \$140,000. FAC, at ¶ 3. But
6 while this allegation may be sufficient to establish a qualifying amount in controversy as a matter
7 of pleading, the additional allegations fail to establish complete diversity of citizenship. More
8 specifically, allegations concerning the domiciles of Jalel and Issa are missing. Furthermore,
9 Plaintiffs allege only that Defendants, both of which are corporations, are each incorporated in
10 Delaware. FAC, at ¶ 6. The FAC is silent regarding Defendants’ respective principal places of
11 business, even though such allegations are required. See Davis, 557 F.3d at 1028.

12 Plaintiffs also allege that federal jurisdiction is established “under 28 U.S.C. § 2201(a) to
13 secure declaratory relief.” The Declaratory Judgment Act, however, is “procedural only” and is
14 not an extension of the traditional bases of federal jurisdiction. Skelly Oil Co. v. Phillips
15 Petroleum Co., 339 U.S. 667, 671 (1950). Indeed, its language permits the federal courts to
16 adjudicate solely those “case[s] of actual controversy within its jurisdiction.” 28 U.S.C. § 2201(a).
17 Consequently, in order for a claim for declaratory relief to independently support federal
18 jurisdiction, the action must either be between parties of diverse citizenship or involve an
19 underlying coercive claim arising under federal law. See Franchise Tax Bd., 463 U.S. at 19.

20 As indicated, Plaintiffs have not established diversity jurisdiction. Nor does the sole claim
21 for declaratory relief encompass an underlying federal law, given the declarations sought in the
22 FAC are each based on provisions of a franchise agreement to which state law contract principles
23 apply. See Republican Party of Guam v. Gutierrez, 277 F.3d 1086, 1089 (9th Cir. 2002) (“The
24 well-pleaded complaint rule applies to declaratory judgment cases . . .”). For these reasons, and
25 contrary to the allegation in the FAC, federal jurisdiction is not established under § 2201(a).

26 Accordingly, because Plaintiffs have not satisfied their obligation to affirmatively
27 demonstrate federal subject matter jurisdiction, the court issues an order to show cause why this

1 action should not be dismissed. If Plaintiffs do not, by **August 19, 2016**, file a written response
2 that demonstrates the basis for this court's subject matter jurisdiction in a manner consistent with
3 the discussion above, the court will dismiss this action without prejudice. See Freeman v.
4 Oakland Unified Sch. Dist., 179 F.3d 846, 847 (9th Cir. 1999).

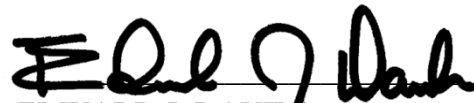
5 To be clear, this order does not permit Plaintiffs leave to file an amended complaint, and
6 the court observes that Plaintiffs have already utilized their one opportunity to amend as a matter
7 of course under Federal Rule of Civil Procedure 15(a). Instead, Plaintiffs must show based on the
8 FAC why this court may exercise jurisdiction over the action.

9 No hearing will be held on the Order to Show Cause unless ordered by the court. In
10 addition, Plaintiffs are advised that the court will not take action on the application for a temporary
11 restraining order until it is satisfied that jurisdiction exists.

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IT IS SO ORDERED.

Dated: August 17, 2016


EDWARD J. DAVILA
United States District Judge