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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MICHAEL SEIBERT,
Plaintiff,

v.

THE RITZ CARLTON HOTEL
COMPANY, LLC, et al.,
Defendants.

Case No. [5:17-cv-03650-EJD](#)
ORDER TO SHOW CAUSE

The instant action was removed to this court by Defendant The Ritz Carlton Hotel Company, LLC. As it must, the court has reviewed the Notice of Removal and other relevant pleadings to determine whether Defendant has adequately established a basis for subject matter jurisdiction. 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 Snell v. Cleveland, Inc., 316 F.3d 822, 826 (9th Cir. 2002) (“[A] court may raise the question of subject matter jurisdiction, sua sponte, at any time during the pendency of the action, even on appeal.”). It has 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). “[S]ubject-matter jurisdiction refers to the court’s statutory or constitutional power to adjudicate the case.” Pistor v. Garcia, 791 F.3d 1104, 1110-11 (9th Cir. 2015) (internal quotations omitted). The court looks to the jurisdictional allegations in a Notice of Removal because “[a] party invoking the federal court’s jurisdiction has the burden of proving the actual existence of subject

1 matter jurisdiction.” Thompson v. McCombe, 99 F.3d 352, 353 (9th Cir. 1996); 28 U.S.C. §
2 1446(a) (requiring a notice of removal contain a “short and plain statement of the grounds for
3 removal”).

4 Federal jurisdiction can generally arise in two ways: (1) from the presence of a federal
5 question, or (2) from diversity of the parties. 28 U.S.C. §§ 1331, 1332. For subject matter
6 jurisdiction to arise on the basis of diversity under § 1332, “there must be complete diversity of
7 citizenship between the parties opposed in interest.” Kuntz v. Lamar Corp., 385 F.3d 1177, 1181
8 (9th Cir. 2004). The amount in controversy must also exceed \$75,000. Naffe v. Frey, 789 F.3d
9 1030, 1039 (9th Cir. 2015). “Absent unusual circumstances, a party seeking to invoke diversity
10 jurisdiction should be able to allege affirmatively the actual citizenship of the relevant parties” in
11 order to confirm that all parties are diverse. Kanter v. Warner-Lambert Co., 265 F.3d 853, 857
12 (9th Cir. 2001); accord DaimlerChrysler Corp. v. Cuno, 547 U.S. 332, 342 n.3 (2006) (Because
13 “federal courts lack jurisdiction unless the contrary appears affirmatively from the record, the
14 party asserting federal jurisdiction when it is challenged has the burden of establishing it.”).

15 Here, Defendant alleges in the Notice of Removal that Plaintiff is a California citizen.
16 Defendant also represents that it is “incorporated under the laws of the State of Delaware with its
17 principal place of business in Bethesda, Maryland.” But Defendant is a limited liability company,
18 and this statement is not enough. Rather than merely alleging its state of incorporation and
19 principal place of business, Defendant must establish these facts for each of Defendant’s members
20 because “an LLC is a citizen of every state of which its owners/members are citizens.” Johnson v.
21 Columbia Props. Anchorage, LP, 437 F.3d 894, 899 (9th Cir. 2006). The court cannot confirm
22 that diversity jurisdiction exists without this additional information.

23 Because the Notice of Removal does not satisfy Defendant’s obligation to affirmatively
24 demonstrate federal subject matter jurisdiction, the court issues an order to show cause why this
25 action should not be remanded. If Defendant does not, by **July 13, 2018**, file a written response
26 which establishes this court’s jurisdiction in a manner consistent with the preceding discussion,
27 the court will remand this action to San Mateo County Superior Court. No hearing will be held on

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the order to show cause unless otherwise ordered by the court.

The Trial Setting Conference scheduled for July 12, 2018, is CONTINUED to **11:00 a.m. on July 19, 2018**, in order to allow for the resolution of the jurisdictional question.

IT IS SO ORDERED.

Dated: July 10, 2018



EDWARD J. DAVILA
United States District Judge