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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

C.I.P. VENTURE, a California limited partnership,

Plaintiff,

v.

COA FINANCIAL GROUP, LLC, a California limited liability company, and DOES 1 through 25, inclusive,

Defendants.

Civil No. 07cv763-L(BLM)

ORDER REMANDING ACTION TO STATE COURT

On April 25, 2007 Defendant filed a notice of removal, removing this unlawful detainer action from State court. The notice of removal is based on diversity jurisdiction pursuant to 28 U.S.C. §§ 1332 and 1441.

The federal court is one of limited jurisdiction. *See Gould v. Mutual Life Ins. Co. of N.Y.*, 790 F.2d 769, 774 (9th Cir. 1986). It possesses only that power authorized by the Constitution or a statute. *See Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 541 (1986). It is constitutionally required to raise issues related to federal subject matter jurisdiction, and may do so *sua sponte*. *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 93-94 (1998); *see Indus. Tectonics, Inc. v. Aero Alloy*, 912 F.2d 1090, 1092 (9th Cir. 1990).

"Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be

1 removed by the defendant or the defendants, to the district court of the United States for the
 2 district and division embracing the place where such action is pending." 28 U.S.C. §1441(a).
 3 Original jurisdiction exists in cases of complete diversity, where each of the plaintiffs is a citizen
 4 of a different state than each of the defendants. 28 U.S.C. §1332; *Caterpillar Inc. v. Lewis*, 519
 5 U.S. 61, 68 (1996).

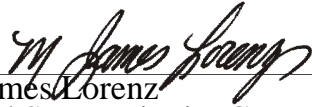
6 "The burden of establishing federal jurisdiction is on the party seeking removal, and the
 7 removal statute is strictly construed against removal jurisdiction." *Nishimoto v.*
 8 *Federman-Bachrach & Assoc.*, 903 F.2d 709, 712 n.3 (9th Cir. 1990). "Federal jurisdiction must
 9 be rejected if there is any doubt as to the right of removal in the first instance." *Gaus v. Miles,*
 10 *Inc.*, 980 F.2d 564, 566 (9th Cir. 1992).

11 The notice of removal states that Plaintiff is a California citizen; however, it makes no
 12 representation about Defendant's citizenship. Based on the allegations in the underlying
 13 complaint, Defendant¹ is a California limited liability company. (Compl. ¶ 2.) The citizenship
 14 of a limited liability company for purposes of diversity jurisdiction is determined by examining
 15 the citizenship of each of its members. *Carden v. Arkoma Assoc.*, 494 U.S. 185, 195-96 (1990).
 16 This information is not provided by Defendant. Based on the foregoing, the court finds there is
 17 doubt as to the right of removal in the first instance. *See Gaus*, 980 F.2d at 566.

18 As Defendant has failed to meet its burden in establishing federal subject matter
 19 jurisdiction, this action is **REMANDED** to the Superior Court of the State of California for the
 20 County of San Diego, South Bay Division.

21 **IT IS SO ORDERED.**

22
 23 DATED: May 3, 2007

24
 25 
 M. James Lorenz
 United States District Court Judge

26
 27 ¹ Although the caption on the notice of removal lists two Defendants, COA
 28 Financial Group, L.L.C. and Andrew Moore, the only named Defendant in the underlying
 complaint is COA Financial Group, L.L.C. The superior court file attached to the notice of
 removal does not indicate that Mr. Moore has been named as a defendant.

1 COPY TO:

2 HON. BARBARA L. MAJOR
3 UNITED STATES MAGISTRATE JUDGE

4 ALL PARTIES/COUNSEL
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