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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

NICOLO J. SCARCELLA, <p style="text-align: center;">vs.</p> ICONIX BRAND GROUP, INC., <p style="text-align: right;">Defendant.</p>	Plaintiff, Defendant.
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CASE NO. 15cv748-LAB (NLS)

ORDER DISCHARGING ORDER TO SHOW CAUSE; AND

ORDER REQUIRING AMENDMENT OF COMPLAINT

Because the complaint did not adequately allege the citizenship of Defendant Fitness EM, LLC so as to establish diversity jurisdiction, the Court ordered Plaintiff Nicolo Scarcella to show cause why it should not be dismissed for failure to invoke the Court’s jurisdiction. Scarcella has no filed a response concluding that both of Fitness EM’s two members are citizens of Massachusetts. While the response only says these members own a home and reside in Massachusetts, which is not the same as citizenship, the Court infers that Scarcella could allege their citizenship if given the chance. *See Morrison v. Zangpo*, 2008 WL 2948696, at *2 (N.D. Cal., July 28, 2008) (collecting cases for the principle that, in general, residence and home ownership are relevant to determining a person’s domicile and citizenship). The order to show cause is **DISCHARGED**.

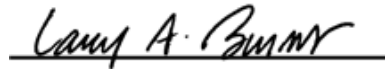
No later than **April 24, 2015**, Scarcella shall file an amended complaint alleging the citizenship of Fitness EM and invoking the Court’s jurisdiction. Scarcella should bear in mind

1 that alleging home ownership and/or residence without alleging citizenship will be insufficient.
2 See *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001) (holding that alleging
3 residency only was insufficient to plead citizenship for purposes of diversity jurisdiction); *Day*
4 *v. U.S. Bank Nat'l Ass'n*, 2015 WL 1383119, at *2 (C.D. Cal., Mar. 24, 2015) (holding that
5 allegations of residence and home ownership were insufficient to plead citizenship for
6 purposes of diversity jurisdiction).

7 **If Scarcella does not successfully amend within the time permitted, this action**
8 **will be dismissed without prejudice for failure to invoke the Court's jurisdiction and**
9 **failure to comply with the Court's order. And if at any time any party has reason to**
10 **believe the parties are not completely diverse, that party must promptly bring it to the**
11 **Court's attention by filing a notice.**

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13 **IT IS SO ORDERED.**

14 DATED: April 16, 2015

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16 **HONORABLE LARRY ALAN BURNS**
17 **United States District Judge**

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