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

EVANSTON INSURANCE
COMPANY,

Plaintiff,

v.

BACHMAN FLATS, LLC, a
California limited liability company,
and BACHMAN FLATS
HOMEOWNERS ASSOCIATION, a
California non-profit mutual benefit
corporation,

Defendants.

Case No. 17-cv-00712-BAS-RBB

**ORDER DISMISSING
COMPLAINT WITHOUT
PREJUDICE**

20 On April 7, 2017, Plaintiff Evanston Insurance Company brought this claim for
21 declaratory relief against Defendants Bachman Flats, LLC and Bachman Flats
22 Homeowners Association (“BFHOA”). (ECF No. 1, “Compl.”) According to the
23 Complaint, Defendant Bachman Flats, LLC is a California LLC, while Defendant
24 BFHOA is a California nonprofit corporation. *Id.* ¶¶ 2–3. Evanston invokes diversity
25 jurisdiction under 28 U.S.C. § 1332.

26 “In civil cases, subject matter jurisdiction is generally conferred upon federal
27 district courts either through diversity jurisdiction, 28 U.S.C. § 1332, or federal
28 question jurisdiction, 28 U.S.C. § 1331.” *Peralta v. Hispanic Bus. Inc.*, 419 F.3d 1064,

1 1068 (9th Cir. 2005). To invoke a district court’s diversity jurisdiction, there must be
2 complete diversity of citizenship between the parties and the amount in controversy
3 must exceed \$75,000. *See Strawbridge v. Curtiss*, 7 U.S. (3 Cranch) 267 (1806); 28
4 U.S.C § 1332(a). Complete diversity exists when “the citizenship of each plaintiff is
5 diverse from the citizenship of each defendant.” *Caterpillar Inc. v. Lewis*, 519 U.S.
6 61, 68 (1996). The party seeking to invoke diversity jurisdiction has the burden of
7 both pleading and proving such jurisdiction. *NewGen, LLC v. Safe Cig, LLC*, 840 F.3d
8 606, 613–14 (9th Cir. 2016) (citation omitted).

9 Here, Plaintiff alleges that Bachman Flats, LLC “is a limited liability company
10 organized and existing under the laws of the State of California with its principal place
11 of business in San Diego County, California.” (Compl. ¶ 2.) This allegation is
12 insufficient to allege diversity jurisdiction. For purposes of diversity jurisdiction, “an
13 LLC is a citizen of every state of which its owners/members are citizens.” *Johnson v.*
14 *Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006). Here, Plaintiff
15 alleges the state in which Defendant Bachman Flats, LLC was formed and does
16 business, but makes no allegations regarding the citizenship of the LLC’s constituent
17 members. Therefore, Plaintiff has not sufficiently pled complete diversity, and the
18 Court lacks subject matter jurisdiction over this case.

19 For these reasons, the Court **DISMISSES** Plaintiff’s Complaint with leave to
20 amend. Plaintiff may file an Amended Complaint properly alleging the citizenship of
21 Bachman Flats, LLC no later than **April 17, 2017**.

22 **IT IS SO ORDERED.**

23
24 **DATED: April 10, 2017**


Hon. Cynthia Bashant
United States District Judge