

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

GERARDO ROBLES IBARRA,

Plaintiff,

v.

**LUNA ESTHETICS STUDIOS, LLC,
ET AL.,**

Defendants.

Case No. 22-2440-DDC-KGG

MEMORANDUM AND ORDER

The court remands this lawsuit to the District Court of Wyandotte County, Kansas because the removing defendant, Luna Esthetics Studios, LLC, has failed to establish that the court has diversity subject matter jurisdiction under 28 U.S.C. § 1332(a). On November 1, 2022, the court issued a Notice and Order to Show Cause to defendant Luna Esthetics Studios, LLC. Doc. 7. It explained that the Notice of Removal fails to allege facts sufficient to allow the court to determine whether diversity of citizenship exists in this lawsuit. *Id.* at 1. Specifically, the Notice of Removal fails to allege the citizenship of two limited liability companies who are defendants: Luna Esthetics Studios, LLC and Luna Esthetics & Wellness, LLC. *Id.* at 2–3. Also, the Notice of Removal alleges that plaintiff and defendant Carmen Morales both are citizens of Kansas. *Id.* at 5. As a consequence, it appears that the removing defendant has failed to allege facts capable of conferring diversity of citizenship jurisdiction. *Id.* And thus, the court can't exercise diversity subject matter jurisdiction under 28 U.S.C. § 1332.

The court has an independent obligation to satisfy itself that subject matter jurisdiction exists. *Henderson ex rel. Henderson v. Shinseki*, 562 U.S. 428, 434 (2011). Also, 28 U.S.C. §

1447(c) requires a federal district court to remand a lawsuit if “at any time before final judgment it appears that that district court lacks subject matter jurisdiction.” 28 U.S.C. § 1447(c); *see also Green Tree Fin. Corp. v. Arndt*, 72 F. Supp. 2d 1278, 1283 (D. Kan. 1999) (“[A] district court may remand an action on its own accord at any time if subject matter jurisdiction is lacking.”).

The court’s Notice and Order to Show Cause directed defendant Luna Esthetics Studios, LLC to show cause why the court should not remand this case for lack of subject matter jurisdiction within 14 days. Doc. 7 at 5. That deadline has passed. And defendant Luna Esthetics Studios, LLC hasn’t submitted any response to the court’s Notice and Order to Show Cause. Thus, defendant Luna Esthetics Studios, LLC has failed to establish good cause why the court shouldn’t remand the case. As a consequence, and because the Notice of Removal fails to allege that the court has diversity subject matter jurisdiction under 28 U.S.C. § 1332, the court remands this case to the District Court of Wyandotte County, Kansas for lack of subject matter jurisdiction.

IT IS THEREFORE ORDERED BY THE COURT THAT the case is remanded to the District Court of Wyandotte County, Kansas because this court lacks subject matter jurisdiction.

IT IS SO ORDERED.

Dated this 18th day of November, 2022, at Kansas City, Kansas.

s/ Daniel D. Crabtree
Daniel D. Crabtree
United States District Judge