UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

Ruiz v. Ally Bank; National Default Servicing Corporation; and Finance of America Mortgage LLC

Ruiz · No. 1:25-cv-00641-KES-SKO · Decided June 5, 2025

SUMMARY

The United States District Court for the Eastern District of California issued an order to show cause regarding subject matter jurisdiction in a removed mortgage-related action. The court concluded that Ally Bank had not established complete diversity because the citizenship of the members of Finance of America Mortgage LLC was not identified. Ally Bank was ordered to provide competent proof of diversity jurisdiction within fourteen days, after which the plaintiff could respond.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sheila K. Oberto
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	June 5, 2025
DOCKET	1:25-cv-00641-KES-SKO
DISPOSITION	other
PROCEDURAL POSTURE	Defendant Ally Bank removed the action from Madera County Superior Court based on diversity jurisdiction. The district court issued an order to show cause requiring Ally Bank to establish that complete diversity and the amount-in-controversy requirement exist.
STANDARD OF REVIEW	The removing defendant bears the burden of establishing federal subject matter jurisdiction, and removal statutes are strictly construed against removal. The district court independently evaluates subject matter jurisdiction and may do so sua sponte.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

subject matter jurisdiction · civil procedure · pleadings · real estate · consumer protection

PRACTICE AREAS

civil procedure | federal jurisdiction | removal | real estate | consumer protection

QUESTIONS PRESENTED

1. Whether Ally Bank established complete diversity of citizenship for purposes of removal under 28 U.S.C. § 1332.
2. Whether the citizenship allegations concerning Finance of America Mortgage LLC were sufficient to establish federal subject matter jurisdiction.
3. Whether the court should require Ally Bank to show cause why the action should not be remanded to state court.

HOLDINGS

1. Ally Bank failed to meet its burden of establishing complete diversity because the removal papers did not identify the members or owners of Finance of America Mortgage LLC or their citizenship.
2. The district court may examine subject matter jurisdiction sua sponte and may require a party asserting federal jurisdiction to establish its jurisdictional allegations by competent proof.

KEY QUOTATIONS

> *"Federal courts are courts of limited jurisdiction."* (at 1)

> *"The 'strong presumption' against removal jurisdiction means that the defendant always has the burden of establishing that removal is proper."* (at 1)

> *"When an action is removed based on diversity, complete diversity must exist at removal."* (at 2)

> *"Absent unusual circumstances, a party seeking to invoke diversity jurisdiction should be able to allege affirmatively the actual citizenship of the relevant parties."* (at 2)

> *"[A]n LLC is a citizen of every state of which its owners/members are citizens."* (at 2)

FACTUAL BACKGROUND

Michael Shane Ruiz filed state-law claims against Ally Bank, National Default Servicing Corporation, and Finance of America Mortgage LLC in California state court. Ally Bank removed the action on diversity-of-citizenship grounds. The removal papers identified Finance of America Mortgage LLC as a Pennsylvania LLC with a Pennsylvania principal place of business but did not identify its members or their citizenship.

PROCEDURAL HISTORY

Plaintiff commenced the action in Madera County Superior Court on April 7, 2025, asserting claims under the California Homeowner Bill of Rights and Unfair Competition Law. Ally Bank removed the action to the Eastern District of California on May 28, 2025, invoking 28 U.S.C. § 1332. The district court found the removal papers deficient because they did not identify the members or citizenship of Finance of America Mortgage LLC and ordered Ally Bank to show cause why the action should not be remanded.

DISPOSITION

other

REMAND INSTRUCTIONS

Ally Bank must, within fourteen days of issuance of the order, demonstrate why diversity jurisdiction exists and submit competent proof establishing diversity. Ruiz may respond within ten days after service of Ally Bank's filing. If Ally Bank fails to respond, the magistrate judge will recommend that the assigned district judge remand the case sua sponte without further notice.

CASES CITED

- Kokkonen v. Guardian Life Ins. Co., 511 U.S. 375, 377 (1994)
- Abrego Abrego v. The Dow Chem. Co., 443 F.3d 676, 684 (9th Cir. 2006)
- Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992)
- Syngenta Crop Prot. v. Henson, 537 U.S. 28, 32 (2002)
- O'Halloran v. Univ. of Wash., 856 F.2d 1375, 1380 (9th Cir. 1988)
- Nishimoto v. Federman-Bachrach & Assoc., 903 F.2d 709, 712 n.3 (9th Cir. 1990)
- United Investors Life Ins. Co. v. Waddell & Reed Inc., 360 F.3d 960, 966 (9th Cir. 2004)
- Demery v. Kupperman, 735 F.2d 1139, 1149 n.8 (9th Cir. 1984)
- Grupo Dataflux v. Atlas Global Grp., L.P., 541 U.S. 567, 593 (2004)
- Caterpillar Inc. v. Lewis, 519 U.S. 61, 68 (1996)
- Cohn v. Petsmart, Inc., 281 F.3d 837, 839 (9th Cir. 2002)
- Gould v. Mut. Life Ins. Co. of New York, 790 F.2d 769, 773 (9th Cir. 1986)
- Miller v. Grgurich, 763 F.2d 372, 373 (9th Cir. 1985)
- Self v. Gen. Motors Corp., 588 F.2d 655, 657 (9th Cir. 1978)
- Kanter v. Warner-Lambert Co., 265 F.3d 853, 857 (9th Cir. 2001)
- Johnson v. Columbia Props. Anchorage, LP, 437 F.3d 894, 899 (9th Cir. 2006)
- Lindley Contours, LLC v. AABB Fitness Holdings, Inc., 414 F. App'x 62, 64-65 (9th Cir. 2011)
- Harris v. Bankers Life & Cas. Co., 425 F.3d 689, 694 (9th Cir. 2005)
- Grayson Serv., Inc. v. Crimson Res. Mgmt. Corp., No. 1:14-cv-01125-SAB, 2015 WL 6689261, at *3 (E.D. Cal. Oct. 28, 2015)
- Harris v. Rand, 682 F.3d 846, 851-52 (9th Cir. 2012)

OPINION

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA MICHAEL SHANE RUIZ, an individual, Case No. 1:25-cv-00641-KES-SKO ORDER TO SHOW CAUSE REGARDING Plaintiff, SUBJECT MATTER JURISDICTION v. (Doc. 1) ALLY BANK; NATIONAL DEFAULT SERVICING CORPORATION; and FINANCE OF

AMERICA MORTGAGE 15 LLC, 16 Defendants. 17 18 On April 7, 2025, Plaintiff Michael Shane Ruiz, an individual, commenced this action in 19 Madera County Superior Court asserting claims under the California Homeowner Bill of Rights 20 and Unfair Competition Law.

(Doc. 1 at 6–29.) On May 28, 2025, Defendant Ally Bank (“Ally 21 Bank”) removed this action to this Court based on diversity of citizenship under 28 U.S.C. §1332. 22 (Doc. 1 at 1–4.) 23 For the following reasons, the Court finds Ally Bank’s Notice of Removal to be deficient 24 and orders Ally Bank to show cause why this action should not be remanded to Madera County 25 Superior Court.

26 I. LEGAL STANDARD 27 “Federal courts are courts of limited jurisdiction.” Kokkonen v. Guardian Life Ins. Co. of 28 Am., 511 U.S. 375, 377 (1994). “They possess only that power authorized by Constitution and 1 statute, which is not to be expanded by judicial decree.” Id. (internal citations omitted). “It is to 2 be presumed that a cause lies outside this limited jurisdiction, and the burden of establishing the 3 contrary rests upon the party asserting jurisdiction.” Id. (internal citations omitted); see also Abrego 4 Abrego v. The Dow Chem.

Co., 443 F.3d 676, 684 (9th Cir. 2006). Consistent with the limited 5 jurisdiction of federal courts, the removal statute is strictly construed against removal jurisdiction. 6 Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992); see also Sygenta Crop Prot. v. Henson, 537 7 U.S. 28, 32 (2002); O’Halloran v. Univ. of Wash., 856 F.2d 1375, 1380 (9th Cir. 1988). “The 8 ‘strong presumption’ against removal jurisdiction means that the defendant always has the burden 9 of establishing that removal is proper.” Gaus, 980 F.2d at 566 (citations omitted); see also 10 Nishimoto v. Federman-Bachrach & Assoc., 903 F.2d 709, 712 n.3 (9th Cir.

1990); O’Halloran, 11 856 F.2d at 1380. “Federal jurisdiction must be rejected if there is any doubt as to the right of 12 removal in the first instance.” Gaus, 980 F.2d at 566. It is well-established that “a district court’s 13 duty to establish subject matter jurisdiction is not contingent upon the parties’ arguments.” See 14 United Investors Life Ins. Co. v. Waddell & Reed Inc., 360 F.3d 960, 966 (9th Cir.

2004). Courts 15 may consider the issue sua sponte. Demery v. Kupperman, 735 F.2d 1139, 1149 n.8 (9th Cir. 1984). 16 Indeed, the Supreme Court has emphasized that “district courts have an ‘independent obligation to 17 address subject-matter jurisdiction sua sponte.’” Grupo Dataflux v. Atlas Global Grp., L.P., 541 18 U.S. 567, 593 (2004) (quoting United States v. S. Cal. Edison Co., 300 F. Supp. 2d 964, 972 (E.D.

19 Cal. 2004)). 20 II. DISCUSSION 21 To invoke this Court’s diversity jurisdiction under 28 U.S.C. § 1332, Ally Bank must 22 demonstrate there is complete diversity of citizenship between the parties and that the amount in 23 controversy exceeds $75,000. Caterpillar Inc. v. Lewis, 519 U.S. 61, 68 (1996); Cohn v. Petsmart, 24 Inc., 281 F.3d 837, 839 (9th Cir.

2002); 28 U.S.C. § 1332. “When an action is removed based on diversity, complete diversity must exist at removal.” Gould v. Mut. Life Ins. Co. of New York, 790 F.2d 769, 773 (9th Cir. 1986) (citing Miller v. Grgurich, 763 F.2d 372, 373 (9th Cir. 1985)). “Federal courts look only to a plaintiff’s pleadings to determine removability.” Id. (citing Self v. Gen.

Motors Corp., 588 F.2d 655, 657 (9th Cir. 1978). “Diversity is generally determined from the face of the complaint.” Id. (citation omitted). “Absent unusual circumstances, a party seeking to invoke diversity jurisdiction should be able to allege affirmatively the actual citizenship of the relevant parties.” Kanter v. Warner-Lambert Co., 265 F.3d 853, 857 (9th Cir.

2001). Here, Ally Bank has failed to meet its burden of demonstrating complete diversity of citizenship. The citizenship of a limited liability company (“LLC”) is determined by the citizenship of all of its members. Johnson v. Columbia Properties Anchorage, LP, 437 F.3d 894, 899 (9th Cir. 2006). “[A]n LLC is a citizen of every state of which its owners/members are citizens.” Id.; see also Lindley Contours, LLC v. AABB Fitness Holdings, Inc., 414 F. App’x.

62, 64–65 (9th Cir. 2011) (noting that if a member of an LLC is a limited partnership or LLC, defendant(s) must also identify the citizenship of each member of that limited partnership or LLC). Neither Plaintiff’s complaint nor Ally Bank’s removal papers identifies the owners or members of Defendant Finance of America Mortgage LLC, or the citizenship of its owners or members at the outset of the case.

See Harris v. Bankers Life & Cas. Co., 425 F.3d 689, 694 (9th Cir. 2005) (“Diversity jurisdiction is based on the status of the parties at the outset of the case.”). The Notice of Removal and its supporting exhibits simply state that Defendant Finance of America Mortgage LLC “is a limited liability company formed under the laws of the state of Pennsylvania, with its principal place of business located at 1 West Elm Street, First Floor, Conshohocken, Pennsylvania 19428.” (Doc.

1 at 2; Doc. 1-1 at 2; Doc. 1-2 at 2.) Accordingly, Ally Bank has failed to meet its burden to establish this Court’s jurisdiction. See, e.g., Grayson Serv., Inc. v. Crimson Res. Mgmt. Corp., No. 1:14–cv–01125–SAB, 2015 WL 6689261, at *3 (E.D. Cal. Oct. 28, 2015) (granting motion to dismiss where the plaintiff’s second amended complaint was “devoid of any mention of the citizenship of the owners of the LLC” because “failure to specify the state citizenship of the parties is fatal to the assertion of diversity jurisdiction”).

III. CONCLUSION AND ORDER For the foregoing reasons, IT IS HEREBY ORDERED that Ally Bank show cause why this action should not be remanded to Madera County Superior Court. Ally Bank has fourteen (14) days from the date this Order is issued to demonstrate why diversity jurisdiction exists. Ally Bank must submit competent proof establishing diversity.

See Harris v. Rand, 682 F.3d 846, 851–52 (9th Cir. 2012) ("[T]he district court may properly require a party asserting federal subject matter jurisdiction to establish its jurisdictional allegations by competent proof."). Plaintiff has ten (10) days from the date of service of Ally Bank's filing to file a response, if he so chooses. Should Ally Bank fail to file a response to this Order to Show Cause, the undersigned will recommend to the assigned district judge that the case be remanded sua sponte without further notice to the parties.

IT IS SO ORDERED.

Dated: June 5, 2025 /s/ Sheila K. Oberto. UNITED STATES MAGISTRATE JUDGE