

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

K.W.P.H. Enterprises v. 7173 North Sharon Avenue Operating
Company, LLC

No. 1:24-cv-01469-JLT-SKO, United States District Court for the Eastern District of California (February 27,
2025)

SUMMARY

The United States District Court for the Eastern District of California issued an order to show cause regarding subject matter jurisdiction in an action involving quantum meruit, open book account, and declaratory relief claims. The court found that the complaint did not adequately establish federal-question jurisdiction or diversity jurisdiction because the defendant LLC's members' citizenship was not alleged, and ordered the plaintiff to show cause, amend the complaint, or voluntarily dismiss within fourteen days.

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	February 27, 2025
DOCKET	1:24-cv-01469-JLT-SKO
DISPOSITION	other
PROCEDURAL POSTURE	After Defendant failed to respond to the complaint, the Clerk entered default and Plaintiff moved for default judgment. Before resolving the motion, the court issued an order to show cause regarding whether subject matter jurisdiction existed.
STANDARD OF REVIEW	Subject matter jurisdiction may be considered sua sponte at any time, and the party invoking federal jurisdiction bears the burden of establishing it. Under Federal Rule of Civil Procedure 12(h)(3), the court must dismiss if it lacks subject matter jurisdiction.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	K.W.P.H. Enterprises dba American Ambulance v. 7173 North Sharon Avenue Operating Company, LLC dba San Joaquin Valley

TOPICS

subject matter jurisdiction

default judgment

civil procedure

commercial litigation

contracts

PRACTICE AREAS

civil procedure

commercial litigation

contracts

QUESTIONS PRESENTED

1. Whether the complaint adequately pleaded federal-question jurisdiction under 28 U.S.C. § 1331.
2. Whether the complaint adequately pleaded complete diversity jurisdiction under 28 U.S.C. § 1332.
3. Whether the court should require Plaintiff to establish subject matter jurisdiction before considering the motion for default judgment.

HOLDINGS

1. The complaint does not adequately plead federal-question jurisdiction because the Declaratory Judgment Act does not independently confer federal-question jurisdiction and the remaining claims arise under state law.
2. The complaint does not adequately plead diversity jurisdiction because it fails to allege the citizenship of each member or owner of the defendant limited liability company.
3. The court may examine subject matter jurisdiction sua sponte at any time, and it must dismiss the action if jurisdiction is lacking; therefore, Plaintiff must establish jurisdiction before the court can proceed on the default judgment motion.

KEY QUOTATIONS

“The Court may consider the issue of subject matter jurisdiction sua sponte at any time during the proceeding, and if the Court finds “it lacks subject matter jurisdiction, the court must dismiss the action.””
(at 1)

“Plaintiff did not allege the citizenship of the members or owners of Defendant 7173 North Sharon Avenue Operating Company, LLC.” (at 2)

“Failure to comply with this order will result in dismissal without prejudice of all claims due to lack of jurisdiction.” (at 4)

FACTUAL BACKGROUND

K.W.P.H. Enterprises, a California corporation doing business as American Ambulance, sued 7173 North Sharon Avenue Operating Company, LLC, a Delaware limited liability company doing business in California. The complaint asserted state-law claims for breach of implied-in-law contract or quantum meruit, open book account,

and declaratory relief. The complaint alleged that federal jurisdiction existed under 28 U.S.C. §§ 1331 and 1332, but it did not identify the citizenship of Defendant's members or owners.

PROCEDURAL HISTORY

Plaintiff filed claims for breach of implied-in-law contract or quantum meruit, open book account, and declaratory relief on November 27, 2024. Defendant did not respond, Plaintiff requested entry of default, and default was entered on February 10, 2025. Plaintiff then moved for default judgment, asserting federal-question and diversity jurisdiction. The court found the jurisdictional allegations insufficient and ordered Plaintiff to show cause, amend the complaint, or voluntarily dismiss.

DISPOSITION

other

REMAND INSTRUCTIONS

Within fourteen days, Plaintiff must show cause in writing why the claims should not be dismissed for lack of subject matter jurisdiction. Alternatively, Plaintiff may file an amended complaint alleging facts establishing jurisdiction or voluntarily dismiss the claims. Failure to comply will result in dismissal without prejudice for lack of jurisdiction.

CASES CITED

- Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377 (1994)
- Romero v. Securus Techs., Inc., 216 F. Supp. 3d 1078, 1085 (S.D. Cal. 2016)
- Scholastic Ent., Inc. v. Fox Ent. Grp., Inc., 336 F.3d 982, 985 (9th Cir. 2003)
- Valdez v. Allstate Ins. Co., 372 F.3d 1115, 1116 (9th Cir. 2004)
- Caterpillar Inc. v. Williams, 482 U.S. 386, 392 (1987)
- City of Oakland v. BP PLC, 969 F.3d 895, 903 (9th Cir. 2020)
- Nationwide Mut. Ins. Co. v. Liberatore, 408 F.3d 1158, 1161 (9th Cir. 2005)
- Stearns v. Stearns, Case No. C22-1579-RSL, 2022 WL 17832259, at *1 (W.D. Wash. Dec. 21, 2022)
- Caterpillar Inc. v. Lewis, 519 U.S. 61, 68 (1996)
- Harris v. Rand, 682 F.3d 846, 850 (9th Cir. 2012)
- NewGen, LLC v. Safe Cig, LLC, 840 F.3d 606, 611-12 (9th Cir. 2016)
- Kanter v. Warner-Lamber Co., 265 F.3d 853, 857 (9th Cir. 2001)
- 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)

OPINION

K.W.P.H. Enterprises v. 7173 North Sharon Avenue Operating Company, LLC
PER CURIAM.

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7 UNITED STATES DISTRICT COURT

8 EASTERN DISTRICT OF CALIFORNIA

9 10 K.W.P.H. ENTERPRISES dba American Case No. 1:24-cv-01469-JLT-SKO Ambulance, a
California corporation,

11 ORDER TO SHOW CAUSE REGARDING

SUBJECT MATTER JURISDICTION

12 Plaintiff, 13 v. (Doc. 1)

14 7173 NORTH SHARON AVENUE

OPERATING COMPANY, LLC dba San 15 Joaquin Valley Rehabilitation Hospital, a Delaware
limited liability company, 16 17 Defendant. 18 On November 27, 2024, Plaintiff K.W.P.H.
Enterprises dba American Ambulance, a 19 California corporation, filed a complaint against
Defendant 7173 North Sharon Avenue Operating 20 Company, LLC, asserting claims for breach of
implied-in-law contract/quantum meruit, open 21 book account, and declaratory relief. (Doc. 1 at
1.) Defendant did not respond to the complaint. 22 On February 10, 2025, Plaintiff requested entry
of default against Defendant (Doc. 7), which was 23 entered that same day. (Doc. 8.) Plaintiff filed
a motion for default judgment. (Doc. 9.) 24 Plaintiff asserts this Court has subject matter
jurisdiction under 28 U.S.C. § 1331 and 25 § 1332(a)(1). (Doc. 1 ¶ 9.) The burden of establishing
subject matter jurisdiction “rests upon the 26 party asserting jurisdiction.” *Kokkonen v. Guardian
Life Ins. Co. of Am.*, 511 U.S. 375, 377 27 (1994); see also *Romero v. Securus Techs., Inc.*, 216 F.
Supp. 3d 1078, 1085 (S.D. Cal. 2016) 28 (“As the party putting the claims before the court,
Plaintiffs bear the burden of establishing 1 jurisdiction.”). The Court may consider the issue of
subject matter jurisdiction sua sponte at any 2 time during the proceeding, and if the Court finds
“it lacks subject matter jurisdiction, the court 3 must dismiss the action.” *Fed. R. Civ. P. 12(h)(3)*;
Scholastic Ent., Inc. v. Fox Ent. Grp., Inc., 4 336 F.3d 982, 985 (9th Cir. 2003). See also *Valdez v.
Allstate Ins. Co.*, 372 F.3d 1115, 1116 (9th

5 Cir. 2004) (noting federal courts are “obligated to consider sua sponte whether [they] have
6 subject matter jurisdiction”). As described below, Plaintiff’s complaint fails to sufficiently plead
7 federal jurisdiction. 8 First, 28 U.S.C. § 1331 grants federal courts jurisdiction “of all civil
actions arising under 9 the Constitution, laws, or treaties of the United States.” The general rule,
referred to as the “well- 10 pleaded complaint rule,” is that a civil action arises under federal law
for purposes of § 1331 11 when a federal question appears on the face of the complaint. *Caterpillar
Inc. v. Williams*, 482 12 U.S. 386, 392 (1987). “[F]ederal jurisdiction depends solely on the
plaintiff’s claims for relief 13 and not on anticipated defenses to those claims.” *City of Oakland v.
BP PLC*, 969 F.3d 895, 903 14 (9th Cir. 2020) (internal quotations omitted). Plaintiff alleges that
the Court “has jurisdiction to 15 grant declaratory relief on behalf of Plaintiff pursuant to 28
U.S.C. § 2201(a)” (Doc. 1 ¶ 11), but 16 this statute does not provide district courts with an
independent basis for federal question 17 jurisdiction. *Nationwide Mut. Ins. Co. v. Liberatore*, 408

F.3d 1158, 1161 (9th Cir. 2005). 18 Plaintiff's other claims—breach of implied-in-law contract/quantum meruit and open book 19 account—sound in state law, and thus the complaint fails to plead jurisdiction under § 1331. See 20 *Stearns v. Stearns*, Case No. C22-1579-RSL, 2022 WL 17832259, at *1 (W.D. Wash. Dec. 21, 21 2022) (issuing order to show cause regarding subject matter jurisdiction where plaintiff failed to 22 plead a federal statute or constitutional provision under which he brought his claims). 23 Second, 28 U.S.C. § 1332(a) provides jurisdiction over certain actions between citizens of 24 different states. Complete diversity is a requirement of 28 U.S.C. § 1332. Thus, the “citizenship 25 of each plaintiff [must be] diverse from the citizenship of each defendant.” *Caterpillar Inc. v. 26 Lewis*, 519 U.S. 61, 68 (1996). For diversity purposes, corporations are citizens of their states of 27 incorporation and their principal places of business. 28 U.S.C. § 1332(c); *Harris v. Rand*, 682 28 F.3d 846, 850 (9th Cir. 2012). A limited liability company (LLC) is the citizen of every state 1 where its owners or members are citizens, regardless of its state of formation or principal place of 2 business; the citizenship of all of its members must be alleged. *NewGen, LLC v. Safe Cig, LLC*, 3 840 F.3d 606, 611-12 (9th Cir. 2016). 4 Plaintiff did not allege the citizenship of the members or owners of Defendant 7173 North 5 Sharon Avenue Operating Company, LLC. The complaint simply states Defendant “is a 6 Delaware limited liability company qualified to do business in the State of California.” (Doc. 1 ¶ 7 2.) Plaintiff's counsel's declaration attached to its motion for default judgment similarly declares 8 that “[t]he California Secretary of State's Web site lists Defendant as a limited liability company 9 formed in Delaware and registered in California since January 29, 2003,” and attaches “a printout 10 of the California Secretary of State's Web page.” (Doc. 9-1 ¶3 and Ex. B.) The attachment does 11 not identify Defendant's members or owners. 12 “Absent unusual circumstances, a party seeking to invoke diversity jurisdiction should be 13 able to allege affirmatively the actual citizenship of the relevant parties.” *Kanter v. Warner- 14 Lamber Co.*, 265 F.3d 853, 857 (9th Cir. 2001). Because Plaintiff did not allege the citizenship of 15 the LLC members or owners, the complaint fails to plead complete diversity to establish 16 jurisdiction under § 1332. See *Grayson Serv., Inc. v. Crimson Res. Mgmt. Corp.*, No. 1:14-cv- 17 01125-SAB, 2015 WL 6689261, at *3 (E.D. Cal. Oct. 28, 2015) (granting motion to dismiss 18 where plaintiff's second amendment complaint was “devoid of any mention of the citizenship of 19 the owners of the LLC” because “failure to specify the state citizenship of the parties is fatal to 20 the assertion of diversity jurisdiction”). Accordingly, 21 1. Within fourteen days of the issuance of this order, Plaintiff SHALL show cause in 22 writing why their claims should not be dismissed for lack of subject matter 23 jurisdiction. 24 2. Alternatively, within fourteen days, Plaintiff may either file an amended complaint 25 that contains allegations addressing the Court's jurisdiction and the issues identified in 26 this order or may voluntarily dismiss their claims. 27 // 28 // 1 Failure to comply with this order will result in dismissal without prejudice of all claims 2 due to lack of jurisdiction. 3 IT IS SO ORDERED. 4 5 Dated: February 27, 2025 /s/ Sheila K. Oberto .

UNITED STATES MAGISTRATE JUDGE

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