

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PRECEDENTIAL VALUE	unpublished district court order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

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PRACTICE AREAS

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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)