

**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)

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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