

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES - GENERAL

Case No.	CV 23-9035 PA (PDx)	Date	November 1, 2023
Title	Davit Nersisyan v. MAV Beauty Brands, Inc., et al.		

Present: The Honorable	PERCY ANDERSON, UNITED STATES DISTRICT JUDGE
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Kamilla Sali-Suleyman Deputy Clerk	Not Reported Court Reporter	N/A Tape No.
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Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

None

None

Proceedings: IN CHAMBERS – COURT ORDER

Before the Court is a Class Action Complaint filed by plaintiff Davit Nersisyan (“Plaintiff”) against defendants MAV Beauty Brands, Inc., Marc Anthony Cosmetics, Inc., and Renpure, LLC (collectively, “Defendants”). (Docket No. 1 (“Complaint”).) Plaintiff alleges that the Court possesses diversity jurisdiction over this action pursuant to the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d).

Federal courts have subject matter jurisdiction only over matters authorized by the Constitution and Congress. Bender v. Williamsport Area School Dist., 475 U.S. 534, 541, 106 S. Ct. 1326, 1331, 89 L. Ed. 2d 501 (1986). In seeking to invoke this Court’s jurisdiction, Plaintiff bears the burden of proving that jurisdiction exists. Scott v. Breeland, 792 F.2d 925, 927 (9th Cir. 1986). Federal Rule of Civil Procedure 8(a) requires that “[a] pleading that states a claim for relief must contain . . . a short and plain statement of the grounds for the court’s jurisdiction . . .” Fed. R. Civ. P. 8(a)(1). This District’s Local Rules further provide that “[t]he statutory or other basis for the exercise of jurisdiction by this Court shall be plainly stated in . . . any document invoking this Court’s jurisdiction.” Local Civil Rule 8-1.

To establish diversity jurisdiction under CAFA, a plaintiff must demonstrate, at a minimum, that at least one plaintiff and one defendant are citizens of different states, and that the aggregate amount in controversy exceeds \$5,000,000.00, exclusive of interest and costs. 28 U.S.C. § 1332(d)(2). A natural person must be a citizen of the United States and be domiciled in a state to establish “state citizenship” for diversity purposes. Kantor v. Wellesley Galleries, Ltd., 704 F.2d 1088, 1090 (9th Cir. 1983). Persons are domiciled in the places they reside with the intent to remain or to which they intend to return. Kanter v. Warner-Lambert Co., 265 F.3d 853, 857 (9th Cir. 2001). “A person residing in a given state is not necessarily domiciled there, and thus is not necessarily a citizen of that state.” Id. A corporation is a citizen of both its state of incorporation and the state in which it has its principal place of business. 28 U.S.C. § 1332(c)(1); see also New Alaska Dev. Corp. v. Guetschow, 869 F.2d 1298, 1300–01 (9th Cir. 1989). For purposes of establishing diversity jurisdiction under CAFA, a limited liability company is a citizen of the state where it has its principal place of business and the state under

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whose laws it is organized. See 28 U.S.C. § 1332(d)(10); see also Roling v. E*Trade Sec., LLC, 756 F. Supp. 2d 1179, 1184 (N.D. Cal. 2010).

Here, the Complaint alleges that defendant Rempure, LLC maintains its “principal place of business in Mound, Minnesota.” (Docket No. 1 ¶ 10.) The Complaint also alleges that defendants MAV Beauty Brands, Inc. and Marc Anthony Cosmetics, Inc. are corporations “headquartered and/or maintaining [their] principal place[s] of business in the city of Vaughan, Ontario.” (Id. ¶¶ 11–12.) Because the Complaint does not allege the state under whose laws [Rempure, LLC] is organized or the states of incorporation of MAV Beauty Brands, Inc. and Marc Anthony Cosmetics, Inc., Plaintiff has failed to allege Defendants’ citizenship. See 28 U.S.C. § 1332(c)(1), (d)(10). As a result, Plaintiff has not established the minimal diversity required for diversity jurisdiction under CAFA.

Accordingly, the Court dismisses Plaintiff’s Complaint for lack of subject matter jurisdiction. Despite these deficiencies, a district court may, and should, grant leave to amend, when it appears that subject matter jurisdiction may exist, even though the complaint inadequately alleges jurisdiction. See 28 U.S.C. § 1653; Trentacosta v. Frontier Pac. Aircraft Indus., Inc., 813 F.2d 1553, 1555 (9th Cir. 1987). Therefore, the Court grants Plaintiff leave to amend the Complaint to attempt to establish federal subject matter jurisdiction. Plaintiff’s First Amended Complaint, if any, must be filed by November 16, 2023. The failure to file a First Amended Complaint by that date or to adequately allege the Court’s jurisdiction may result in the dismissal of this action without prejudice.

IT IS SO ORDERED.