

FILED
Clerk
District Court
JUL 10 2023

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS**

for the Northern Mariana Islands
By JP
(Deputy Clerk)

**BIGBANG ENTERTAINMENT, LLC,
Plaintiff,**

Case No. 1:23-cv-00008

v.

**DECISION AND ORDER SUA SPONTE
REMANDING CASE FOR LACK OF
SUBJECT MATTER JURISDICTION**

**IMPERIAL PACIFIC INTERNATIONAL
(CNMI), LLC,**

Defendant.

On March 31, 2023, Plaintiff BigBang Entertainment, LLC, (“BigBang”) initiated this civil lawsuit against Defendant Imperial Pacific International (CNMI), LLC (“IPI”) in the Superior Court for the Commonwealth of the Northern Mariana Islands (“CNMI”) asserting seven state law causes of action. (Compl., ECF No. 1-1 at 2.) IPI was not served with the Complaint until April 12, 2023. (Notice Removal ¶ 2, ECF No. 1 at 2.) On May 2, 2023, Defendant IPI removed the action to this Court pursuant to 28 U.S.C. § 1332(a) (diversity jurisdiction) and 28 U.S.C. § 1441(b). (Notice Removal ¶ 3, ECF No. 1.) Pending before the Court is IPI’s motion to dismiss the fifth and sixth causes of action in the Complaint (ECF No. 3), which BigBang does not oppose (Pl.’s Non-Opp’n to Mot. Dismiss, ECF No. 7). Before the Court can adjudicate the motion, however, it must first ascertain whether it has subject matter jurisdiction. A review of the complaint and the notice of removal reveals that subject matter jurisdiction has not been sufficiently plead; therefore, the Court issues this decision and order sua sponte remanding this case back to the CNMI Superior Court.

I. BACKGROUND

BigBang is a limited liability company formed under the laws of the CNMI. (Compl. ¶ 5.) IPI is also a limited liability company with one sole member, Best Sunshine International Limited,

1 incorporated in the British Virgin Islands with its principal place of business in the Hong Kong
 2 Special Administrative Region of the People’s Republic of China. (*Id.* ¶¶ 8-12.)

3 II. LEGAL STANDARD

4 A. Subject Matter Jurisdiction

5 Federal courts are courts of limited jurisdiction empowered to hear only those cases authorized
 6 by the Constitution or by Congress. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994).
 7 A court must dismiss a case if it determines that it lacks subject-matter jurisdiction. Fed. R. Civ. P.
 8 12(h)(3).
 9

10 Federal courts have diversity jurisdiction over “all civil actions where the matter in controversy
 11 exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between-- (1) citizens of
 12 different States; (2) citizens of a State and citizens or subjects of a foreign state . . . ; (3) citizens of
 13 different States and in which citizens or subjects of a foreign state are additional parties[.]” 28 U.S.C. §
 14 1332(a). “The party seeking to invoke the district court’s diversity jurisdiction always bears the burden
 15 of both pleading and proving diversity jurisdiction.” *Rainero v. Archon Corp.*, 844 F.3d 832, 840 (9th Cir.
 16 2016) (quoting *NewGen, LLC v. Safe Cig, LLC*, 840 F.3d 606, 613–14 (9th Cir. 2016)). “In cases where
 17 entities rather than individuals are litigants, diversity jurisdiction depends on the form of the entity.”
 18 *Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006). For example, a
 19 corporation is a citizen of the state of incorporation and the state where its principal place of business is
 20 located. *Id.* In contrast, limited liability companies (“LLCs”) are “citizens of every state of which its
 21 owners/members are citizens.” *Id.* “[W]here an LLC is a member of another LLC, the citizenship of the
 22 ‘sub-member’ LLC is likewise defined by the citizenships of its own members.” *19th Capital Grp., Inc.*
 23 *v. 3 GGG’s Truck Lines, Inc.*, No. CV 18-2493 PA (RAOx), 2018 U.S. Dist. LEXIS 226595, at *4, 2018
 24 WL 6219886 (C.D. Cal. Apr. 3, 2018) (citations omitted). For individuals, citizenship in a state requires
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1 United States citizenship and is determined by domicile. *Kanter v. Warner-Lambert Co.*, 265 F.3d 853,
 2 857 (9th Cir. 2001).

3 **B. Removal**

4 When a case has been removed to federal court pursuant to § 1441(b), which allows for
 5 removal based upon diversity of citizenship, the proponent of federal jurisdiction “has the burden to
 6 prove, by a preponderance of the evidence, that removal is proper.” *Geographic Expeditions, Inc. v.*
 7 *Est. of Lhotka ex rel. Lhotka*, 599 F.3d 1102, 1106-07 (9th Cir. 2010) (citation omitted). There is a
 8 “strong presumption against removal jurisdiction” and the removal statute is strictly construed against
 9 removal jurisdiction “because removal jurisdiction ousts state-court jurisdiction and ‘must be rejected
 10 if there is any doubt as to the right of removal in the first instance.’” *Id.* (citations omitted). Diversity
 11 jurisdiction does not need to be plead exclusively through the complaint; a defendant’s notice of
 12 removal may fill in the necessary facts as the party asserting diversity jurisdiction. *See Kanter*, 265
 13 F. 3d at 857-58. A defendant’s defective allegation regarding citizenship may be cured by amending
 14 the notice of removal. *Id.* at 858 (“Defective allegations of jurisdictions may be amended, upon terms,
 15 in the trial or appellate courts.” (quoting 28 U.S.C. § 1653)).

18 **III. DISCUSSION**


19 IPI removed this case asserting diversity jurisdiction pursuant to § 1441(b). (Notice Removal
 20 1-2.) However, the Court concludes it does not have diversity jurisdiction based upon the complaint
 21 and notice of removal. This Court has repeatedly dismissed cases for failure to adequately plead the
 22 citizenship of businesses, which is required for diversity jurisdiction. *See Supertech, Inc. v. My*
 23 *Choice Software, LLC*, No. 1:23-CV-00002, 2023 U.S. Dist. LEXIS 49481, at *3-4, 2023 WL
 24 2600396, at *2 (D. N. Mar. I. Mar. 23, 2023) (collecting cases).

1 Here, IPI has failed to meet its burden by a preponderance of the evidence that removal is
2 proper because BigBang's citizenship was not adequately plead. IPI conclusory states that BigBang
3 is a citizen of the CNMI. (Notice Removal ¶ 5.) However, because BigBang is an LLC, IPI, as the
4 proponent of federal jurisdiction, must identify the citizenships of every member of BigBang as the
5 members' citizenships determine BigBang's citizenship. The complaint also neither identifies
6 BigBang's members nor their citizenships. Thus, IPI has not met its burden to establish diversity
7 jurisdiction and the Court sua sponte remands this action. *See Dunford v. Bank of Am., N.A.*, No.
8 3:21-cv-1382-CAB-AHG, 2021 U.S. Dist. LEXIS 166132, at *1 (S.D. Cal. Aug. 31, 2021)
9 (remanding case sua sponte because of lack of subject matter jurisdiction).
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11 IV. CONCLUSION

12 Based on the foregoing, the Court concludes that it lacks subject matter jurisdiction over this
13 matter and REMANDS the case to the CNMI Superior Court. Accordingly, this Court does not have
14 the authority to grant either party any relief and therefore does not rule on the pending motion by IPI
15 to dismiss the fifth and sixth causes of action in the Complaint. Finally, the hearing on IPI's motion to
16 dismiss is VACATED.
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18 IT IS SO ORDERED this 10th day of July, 2023.
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22 RAMONA V. MANGLONA
23 Chief Judge
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