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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

ATLANTIC WAVE HOLDINGS, LLC;
et. al.,

Plaintiffs,

v.

CYBERLUX CORPORATION,

Defendant.

Case No.: 3:24-cv-00482-RBM-VET

**ORDER TO SHOW CAUSE
REGARDING SUBJECT MATTER
JURISDICTION**

On March 5, 2024, Plaintiffs Atlantic Wave Holdings, LLC and Secure Community, LLC (collectively, “Plaintiffs”) filed an Application for Entry of Judgment on Sister-State Judgment in the Superior Court of California, County of San Diego (“San Diego Superior Court”) pursuant to California’s Sister State Money Judgments Act, Cal. Code Civ. Proc. § 1710.10 *et seq.* (the “Application”). (Doc. 1-5 at 2.) The same day, the San Diego Superior Court entered judgment against Defendant in the amount of \$1,149,866.85 (the “California Sister State Judgment”). (Doc. 1-9 at 2.) On March 11, 2024, Defendant Cyberlux Corporation (“Defendant”) removed the action to this Court (“Notice of Removal”). (Doc. 1.) On April 10, 2024, Defendant filed a Motion to Vacate the Sister State Judgment (“Motion to Vacate”) (Doc. 9), which is still pending before the Court.

Invoking its inherent power to raise the issue of subject matter jurisdiction *sua sponte*, and for the reasons discussed below, the Court **ORDERS DEFENDANT TO**

1 **SHOW CAUSE** as to how the constitutional requirement of standing is satisfied and why
2 this action should not be remanded for lack of subject matter jurisdiction

3 **I. LEGAL STANDARD**

4 “Federal courts are courts of limited jurisdiction.” *Kokkonen v. Guardian Life Ins.*
5 *Co.*, 511 U.S. 375, 377 (1994). In civil cases, federal courts have subject matter jurisdiction
6 over only those cases where either diversity jurisdiction or federal question jurisdiction
7 exist. *See Peralta v. Hispanic Bus., Inc.*, 419 F.3d 1064, 1068–69 (9th Cir. 2005). Because
8 its jurisdiction is limited, “[a] federal court is presumed to lack jurisdiction in a particular
9 case unless the contrary affirmatively appears.” *Stock West, Inc. v. Confederated Tribes*,
10 873 F.2d 1221, 1225 (9th Cir. 1989).

11 Courts “have an independent obligation to determine whether subject-matter
12 jurisdiction exists, even in the absence of a challenge from any party.” *Arbaugh v. Y&H*
13 *Corp.*, 546 U.S. 500, 514 (2006). “[S]ubject-matter jurisdiction, because it involves a
14 court’s power to hear a case, can never be forfeited or waived.” *United States v. Cotton*,
15 535 U.S. 625, 630 (2002). A district court may remand a case to state court *sua sponte* if
16 it determines that jurisdiction is lacking. 28 U.S.C. § 1447(c); *see* Fed. R. Civ. P. 12(h)(3)
17 (“If the court determines at any time that it lacks subject matter jurisdiction, the court must
18 dismiss the action.”).

19 **II. DISCUSSION**

20 **A. Article III Standing**

21 Article III of the United States Constitution confers on federal courts that the
22 “judicial power of the United States” to adjudicate cases and controversies. U.S. Const.,
23 art. III, § 2. “‘One element of the case-or-controversy requirement’ is that plaintiffs ‘must
24 establish that they have standing to sue.’” *Clapper v. Amnesty Int’l USA*, 568 U.S. 398,
25 408 (2013) (quoting *Raines v. Byrd*, 521 U.S. 811, 818 (1997)).

26 The irreducible constitutional minimum of Article III standing contains three
27 elements. First, the plaintiff must have suffered an “injury in fact” that is
28 “concrete and particularized” and “actual or imminent.” Second, there must
be a causal connection between the injury and the conduct complained of,

1 such that the injury is fairly traceable to the action challenged. “Third, it must
2 be likely, as opposed to merely speculative, that the injury will be redressed
3 by a favorable decision.”

4 *Renee v. Duncan*, 686 F.3d 1002, 1012 (9th Cir.2012) (quoting *Lujan v. Defenders of*
5 *Wildlife*, 504 U.S. 555, 560 (1992)) (internal quotation marks, brackets, and citations
6 omitted). “The party invoking federal jurisdiction bears the burden of establishing these
7 elements.” *Lujan*, 504 U.S. at 561. A suit brought by a party without Article III standing
8 is not a “case or controversy,” and a federal court thereby lacks subject matter jurisdiction
9 over the suit. *Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 93–95 (1998).

10 Standing to sue is a doctrine that “limits the category of litigants empowered to
11 maintain a lawsuit in federal court to seek redress for a legal wrong.” *Spokeo, Inc. v.*
12 *Robins*, 578 U.S. 330, 338 (2016), *as revised* (May 24, 2016) (citations omitted). When
13 standing is challenged “[a]t the pleading stage, general factual allegations of injury
14 resulting from the defendant’s conduct may suffice” *Lujan*, 504 U.S. at 561.

15 The circumstances surrounding removal in this case are unique, as Plaintiffs did not
16 file a lawsuit against Defendant in San Diego Superior Court but instead sought to register
17 a Virginia state court judgment in California pursuant to California’s Sister State Money
18 Judgments Act, Cal. Code Civ. Proc. § 1710.10 *et seq.* (the “Act”). Based on its review of
19 the Notice of Removal and the Application, the Court finds that Defendant’s assertions
20 insufficiently allege a case or controversy exists. Specifically, the Court has doubts as to
21 whether Plaintiffs have asserted any injuries caused by Defendant’s alleged conduct and
22 redressable by a federal court to confer Article III standing.

23 Plaintiffs did not file a complaint or any similar pleading in San Diego Superior
24 Court. Rather, Plaintiffs filed the Application seeking to register and enforce the Virginia
25 Judgment pursuant to the Act. “The registration procedure established by the [Act] is
26 designed to allow parties to avoid the normal trappings of an original action, e.g., the
27 necessity for pleadings.” *WV 23 Jumpstart, LLC v. Mynarcik*, 85 Cal. App. 5th 596, 605
28 (2022) (quoting *Casey v. Hill*, 79 Cal.App.5th 937, 959–960 (2022)).

1 For purposes of establishing Plaintiffs’ standing to sue, it is not apparent on the face
2 of the Application that Plaintiffs effectively commenced a lawsuit against Defendant to
3 obtain relief for a legal wrong. Indeed, Plaintiffs do not plead any causes of action against
4 Defendant. Nor does the Application contain any allegations of Defendant’s unlawful
5 conduct giving rise to such claims.

6 Accordingly, the Court **ORDERS DEFENDANT TO SHOW CAUSE** why this
7 action should not be remanded for lack of jurisdictional standing.

8 **B. Diversity Jurisdiction**

9 As the party invoking federal jurisdiction, Defendant asserts subject matter
10 jurisdiction based solely on diversity of citizenship (*see* Doc. 1 ¶ 8) and bears the burden
11 of establishing its existence. *Lujan*, 504 U.S. at 561. Pursuant to 28 U.S.C. §1332(a),
12 federal courts have “original jurisdiction of all *civil actions* where the matter in *controversy*
13 exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between []
14 citizens of different States” (emphasis added); *see, e.g., Caterpillar Inc. v. Lewis*, 519
15 U.S. 61, 67–68 (1996). The citizenship of each plaintiff must be diverse from the
16 citizenship of each defendant. *Caterpillar Inc.*, 519 U.S. at 68. Further, the amount in
17 controversy must exceed “the sum or value of \$75,000, exclusive of interest and costs.” 28
18 U.S.C. § 1332(a).

19 In its Notice of Removal, Defendant asserts that Plaintiffs are both “Virginia limited
20 liability company[ies] and its members are not residents of Nevada or North Carolina.”
21 (Doc. 1 ¶¶ 13–14 (citations omitted).) Defendant states that “Plaintiffs’ Application seeks
22 \$1,149,866.85 in money damages pursuant to a Sister-State Judgment from the
23 Commonwealth of Virginia.” (*Id.* at ¶ 10.) Notwithstanding these assertions, the Court is
24 not convinced the Application constitutes a “civil action” or that the amount is “in
25 controversy” as required under Section 1332(a).

26 California state courts have previously determined that filing an application pursuant
27 to Section 1710.20 of the Act is generally considered a “special proceeding,” not a civil
28 action. *Conseco Marketing, LLC v. IFA & Ins. Services, Inc.*, 221 Cal. App. 4th 831, 838

1 (2013). “Unlike the traditional procedure, a party seeking to enforce a sister state judgment
2 under the Act does not file an action.” *Blizzard Energy, Inc. v. Schaefers*, 71 Cal. App. 5th
3 832, 844. As such, a proceeding under the Act “cannot be characterized as an ‘action at
4 law’ under the common law or a ‘suit in equity’ under equity practice. *Id.* at 843–44,
5 (2021) (citing *Tide Water Assoc. Oil Co. v. Superior Ct.*, 43 Cal.2d 815, 822 (1955)).
6 Without more, the Court is unable to determine whether the Application is a “civil action”
7 over which the Court has jurisdiction.

8 Additionally, because Plaintiffs do not assert any actionable claims for damages
9 against Defendant, and Plaintiffs were already awarded the damages Defendant relies on
10 to establish the jurisdictional requirement, it is unclear whether the amount entered on the
11 California Sister State Judgment is “in controversy.”

12 Thus, the Court is not certain that it has jurisdiction over the present case. The Court
13 therefore **ORDERS DEFENDANT TO SHOW CAUSE** why this action should not be
14 remanded for lack of subject matter jurisdiction.

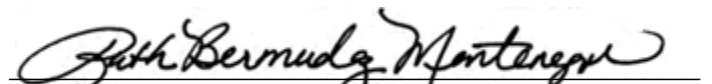
15 **III. CONCLUSION**

16 Based on the foregoing, the Court **ORDERS DEFENDANT TO SHOW CAUSE**
17 as to why this action should not be remanded for lack of subject matter jurisdiction and for
18 failure to allege standing under Article III.

19 Defendant’s response alleging proper subject matter jurisdiction shall be filed on or
20 before **March 4, 2025**. If Plaintiffs dispute any assertions, they may file a reply on or
21 before **March 11, 2025**. A hearing on the order to show cause shall be held on **March 14,**
22 **2025, at 1:30 p.m.** The Court may choose to vacate the hearing date and issue a ruling on
23 the parties’ briefs only.

24 **IT IS SO ORDERED.**

25 DATE: February 27, 2025

26 
27 HON. RUTH BERMUDEZ MONTENEGRO
28 UNITED STATES DISTRICT JUDGE