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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Terry L. Carr; Rodney C. Carr,

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No. CV 09-667-PHX-JAT

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Plaintiffs,

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**ORDER**

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vs.

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Esurance Insurance Company,

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Defendant.

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“Inquiring whether the court has jurisdiction is a federal judge’s first duty in every case.” *Belleville Catering Co. v. Champaign Market Place, L.L.C.*, 350 F.3d 691, 693 (7<sup>th</sup> Cir. 2003).

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In this case, the notice of removal fails to sufficiently plead jurisdiction. *See* 28 U.S.C. § 1332. First, the notice of removal fails to allege a state of incorporation and a principal place of business for Defendant. *See Industrial Tectonics v. Aero Alloy*, 912 F.2d 1090, 1092, 1094 (9<sup>th</sup> Cir. 1990). Second, the notice of removal states that “Plaintiff is a resident” of Arizona, but it does not plead Plaintiff’s citizenship, nor does it acknowledge that there are two Plaintiffs. *See Kanter v. Warner-Lambert*, 265 F.3d 853, 857-858 (9<sup>th</sup> Cir. 2001).

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Accordingly,

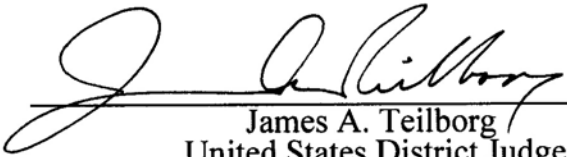
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**IT IS ORDERED** that by May 22, 2009, Defendant (as the party asserting jurisdiction and therefore, with the burden of pleading jurisdiction, *see Industrial Tectonics*,

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1 912 F.2d at 1092) shall file an amended notice of removal properly alleging federal subject  
2 matter jurisdiction, or this case will be remanded for lack of federal subject matter  
3 jurisdiction.

4 DATED this 7<sup>th</sup> day of May, 2009.

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8 James A. Teilborg  
9 United States District Judge  
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