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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Brown Bark III, L.P.,

Plaintiff,

vs.

Jonathan Vento, Lori Vento, Grace Hotels)  
LLC, Donald Zeleznak, and Shirley)  
Zeleznak.

Defendants.

No. CV 09-1298-PHX-JAT

**ORDER**

On July 21, 2009, this Court issued the following Order to Show cause regarding federal subject matter jurisdiction:

“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). In this case, the amended complaint fails to sufficiently plead jurisdiction. *See* 28 U.S.C. § 1332; *Johnson v. Columbia Properties Anchorage, L.P.*, 437 F.3d 894, 899 (9<sup>th</sup> Cir. 2006).

Accordingly,

**IT IS ORDERED** that by August 10, 2009, Plaintiff (who is the party asserting jurisdiction and therefore the party with the burden of pleading jurisdiction, *see Industrial Tectonics v. Aero Alloy*, 912 F.2d 1090, 1092 (9<sup>th</sup> Cir. 1990)) shall file a second amended complaint properly alleging federal subject matter jurisdiction, or this case will be dismissed without prejudice for lack of federal subject matter jurisdiction.

**IT IS FURTHER ORDERED** that Plaintiff is cautioned that it will be given one opportunity to amend to cure the jurisdiction defects. The Court will not issue additional sua sponte show cause orders to advise Plaintiff how to plead jurisdiction.<sup>1</sup> Therefore, if the amended complaint fails to plead federal subject matter jurisdiction, this case will be dismissed without the Court sua sponte granting Plaintiff any further opportunities to amend.

