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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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NEVADA RAILROAD MATERIALS,
INC.,

No. CV 09-2658-PHX-JAT

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Plaintiff,

ORDER

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vs.

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ARIZONA EASTERN RAILWAY
COMPANY; IOWA PACIFIC
HOLDINGS, LLC,

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Defendants.

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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 (7th Cir. 2003). In this case, the complaint fails to sufficiently plead jurisdiction. *See* 28 U.S.C. § 1332; *Johnson v. Columbia Properties Anchorage, L.P.*, 437 F.3d 894, 899 (9th Cir. 2006) (discussing the citizenship of a limited liability company); *Industrial Tectonics v. Aero Alloy*, 912 F.2d 1090, 1092 (9th Cir. 1990) (discussing the citizenship of a corporation).

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Accordingly,

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IT IS ORDERED that by January 27, 2010, Plaintiff (who is the party asserting jurisdiction and therefore the party with the burden of pleading jurisdiction, *see id.*) shall file an amended complaint properly alleging federal subject matter jurisdiction, or this case will be dismissed without prejudice for lack of federal subject matter jurisdiction.

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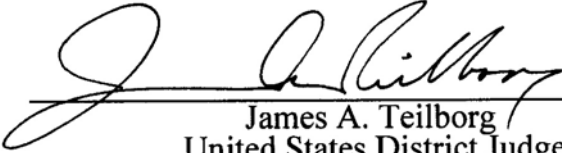
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1 **IT IS FURTHER ORDERED** that Plaintiff is cautioned that it will be given one
2 opportunity to amend to cure the jurisdictional defects. The Court will not issue additional
3 sua sponte show cause orders to advise Plaintiff how to plead jurisdiction.¹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

6 **IT IS FURTHER ORDERED** that the motion for extension of time to answer (Doc.
7 #12) is denied as moot; Defendants shall answer the amended complaint within 14 days of
8 when it is filed.

9 DATED this 13th day of January, 2010.

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12 _____
13 James A. Teilborg
14 United States District Judge
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27 ¹ The Court should not give a party advice because advice undermines the district
28 judge's role as an impartial decision maker. *See Pliler v. Ford*, 542 U.S. 225, 231 (2004).