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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

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9 Ted King,

10 Plaintiff,

11 vs.

12 LVN Motors, Inc.; Van Tuyl Group, Inc.,

13 Defendants.

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No. CV 11-733-PHX-JAT

ORDER

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Pending before the Court is Plaintiff’s application to proceed in forma pauperis. However, before the Court considers that motion, the Court will consider whether it has jurisdiction over this case. *See Belleville Catering Co. v. Champaign Market Place, L.L.C.*, 350 F.3d 691, 693 (7th Cir. 2003).

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Federal courts are courts of limited jurisdiction; thus, they can hear only those cases that the Constitution and Congress have authorized them to adjudicate: namely, cases involving diversity of citizenship, a federal question, or cases to which the United States is a party. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). The party asserting jurisdiction bears the burden of proving a jurisdictional basis exists. *Id.*

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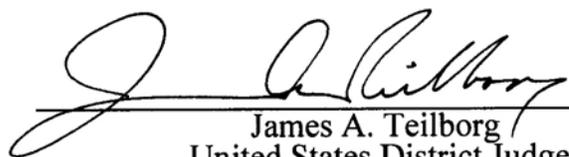
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In this case, Plaintiff states that jurisdiction is based on the Federal Arbitration Act (9 U.S.C. § 2) (“FAA”). Doc. 1 at 2. However, the FAA does not create a basis for Federal subject matter jurisdiction by itself, or as a Federal question. *See Carter v. Health Net of Calif., Inc.*, 374 F.3d 830, 834 (9th Cir. 2004) (“It is well-established that even when a

1 petition is brought under the Federal Arbitration Act (FAA), a petitioner seeking to confirm
2 or vacate an arbitration award in federal court must establish an independent basis for federal
3 jurisdiction. *Southland Corp. v. Keating*, 465 U.S. 1, 15 n. 9 (1984) (noting that ‘while the
4 Federal Arbitration Act creates federal substantive law requiring the parties to honor
5 arbitration agreements, it does not create any independent federal-question jurisdiction.’)”).

6 Because the FAA cannot be the basis for jurisdiction in this case,
7 IT IS ORDERED that by May 25, 2011, Plaintiff shall file an amended complaint
8 alleging a basis for federal subject matter jurisdiction, or this case will be dismissed, without
9 prejudice.

10 DATED this 4th day of May, 2011.

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14 James A. Teilborg
United States District Judge

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