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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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David Toon,

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No. CV 11-1196-PHX-JAT

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Plaintiff,

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ORDER

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vs.

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Patricia R. Rivard; Steven Rivard,

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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 alleges jurisdiction based on diversity. Doc. 5 at 1; 28 U.S.C. § 1332. Diversity jurisdiction requires complete diversity between all plaintiffs and all defendants. *Caterpillar v. Lewis*, 386 U.S. 523, 531 (1996).

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Plaintiff alleges that he is a citizen of Arizona. Doc. 5 at 1. Plaintiff alleges that Defendant Patricia Rivard is a citizen of Arizona. *Id.* Plaintiff makes no jurisdictional allegation for Defendant Steven Rivard. Based on these allegations, there is not complete diversity among the parties. Further, because Plaintiff and one Defendant are both citizens of the same state, the Court finds that this defect in jurisdiction cannot be cured by an amendment to the complaint. Therefore,

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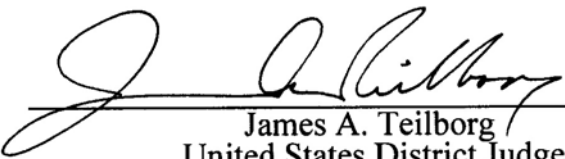
IT IS ORDERED that this case is dismissed, without prejudice, for lack of federal subject matter jurisdiction.

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IT IS FURTHER ORDERED that the motion to proceed in forma pauperis (Doc. 2) is denied as moot.

DATED this 12th day of July, 2011.



James A. Teilborg
United States District Judge