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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Lexington Insurance Company,

No. CV 12-2119-PHX-JAT

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Plaintiff,

ORDER

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vs.

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Scott Homes Multifamily, Inc., Silverbell)
290 Limited Partnership,

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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.

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First, the complaint cites 28 U.S.C. §§ 2201-2202 as a basis for jurisdiction. However, the Declaratory Judgment Act is not a basis for jurisdiction; thus, the complaint must establish a basis for federal subject matter jurisdiction independent from the Declaratory Judgment Act. *Skelly Oil Co. v. Phillips Petroleum Co.*, 339 U.S. 667, 672-674 (1950). Second, the complaint cites 28 U.S.C. § 1335, which is the interpleader statute. However, nothing in the complaint suggests Plaintiff is attempting to interplead funds with the Court.

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Finally, the complaint cites 28 U.S.C. § 1332, diversity jurisdiction. However, the complaint fails to plead the citizenship of Defendant Scott Homes, Inc. *See Hertz Corp. v. Friend*, 130 S. Ct. 1181, 1192; - - - U.S. - - - (2010) (discussing the citizenship of a

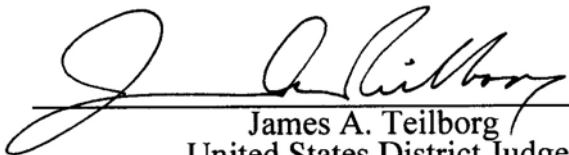
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1 corporation). It also fails to plead the citizenship of Defendant Silverbell 290 Limited
2 Partnership. *See Carden v. Arkoma Associates*, 494 U.S. 185, 195-96 (1990) (discussing the
3 citizenship of limited partnerships). The complaint also fails to plead the citizenship of
4 Timberline Village Corporation. *See Hertz Corp.*, 130 S. Ct. at 1192 (discussing the
5 citizenship of a corporation).

6 Based on the foregoing,

7 **IT IS ORDERED** that by December 19, 2012, Plaintiff shall file a supplement to the
8 complaint fully alleging federal subject matter jurisdiction, or this case will be dismissed,
9 without prejudice, for lack of federal subject matter jurisdiction.

10 DATED this 27th day of November, 2012.

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15 James A. Teilborg
16 United States District Judge
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