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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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State Farm Mutual Automobile Insurance Company, an Illinois corporation,

No. CV-13-400-PHX-LOA

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Plaintiff,

ORDER

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vs.

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United States of America,

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Defendant.

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United States of America,

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Counter Claimant

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vs.

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State Farm mutual Automobile Insurance Company, an Illinois corporation,

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Counter Defendant.

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This matter arises on the Court’s review of Plaintiff’s Motion to Dismiss

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Counterclaim for failure to state a claim upon which relief can be granted, requesting an

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order dismissing Defendant’s Counterclaim with prejudice, pursuant to Rule 12(b)(6),

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Fed.R.Civ.P. (Doc. 18)

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Plaintiff’s Motion fails to comply with two prior Court orders, docs. 6, 12, requiring

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that, before motions to dismiss pursuant to Rule 12(b)(6), Fed.R.Civ.P., or Rule 12(c),

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Fed.R.Civ.P., may be filed, moving counsel must meet and confer with adverse counsel prior

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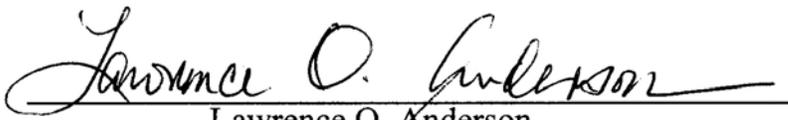
to the filing such a motion and, if unsuccessful, the motion “must contain a certification of

1 conferral, indicating that counsel have conferred to determine whether an amendment could
2 cure a deficient pleading, have been unable to agree that the pleading is curable by a
3 permissible amendment, and have otherwise complied with this Order.” (Doc. 6 at 3)
4 Plaintiff’s Motion does not contain, or attach thereto, the required verified certification. *See,*
5 *e.g., Monje v. Spin Master Inc.*, 2013 WL 2390625, at *11 (D. Ariz. May 30, 2013) (“This
6 Court has a standard Order that requires the Parties to “meet and confer prior to the filing of
7 a motion to dismiss to determine whether it can be avoided.... [M]otions to dismiss must
8 contain a certification of conferral indicating that the parties have conferred to determine
9 whether an amendment could cure a deficient pleading, and have been unable to agree that
10 the pleading is curable by a permissible amendment.” (Doc. 109.)”).

11 On the Court’s own motion,

12 **IT IS ORDERED** that Plaintiff’s Motion to Dismiss Counterclaim, doc. 18, is
13 **DENIED** without prejudice.

14 Dated this 7th day of June, 2013.

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17 Lawrence O. Anderson
18 United States Magistrate Judge
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