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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Dennis M Danzik and RDX Technologies
10 Corporation,

11 Plaintiffss,

12 v.

13 CWT Canada II Limited Partnership,
14 Resource Recovery Corporation, Changing
15 World Technologies Incorporated, Jean
16 Noelting, Unknown Noelting, Bruce
17 MacFarlane, Unknown MacFarlane, Brian
18 Appel, and Unknown Appel,

19 Defendants.
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No. CV-17-00969-PHX-JAT

ORDER

21 “Inquiring whether the court has jurisdiction is a federal judge’s first duty in every
22 case.” *Belleville Catering Co. v. Champaign Market Place, L.L.C.*, 350 F.3d 691, 693
23 (7th Cir. 2003).

24 In this case, the complaint alleges jurisdiction based on diversity. *See* 28 U.S.C. §
25 1332. However, the complaint does not allege sufficient facts for the Court to determine
26 whether there is jurisdiction. *See Valdez v. Allstate Insurance Co.*, 372 F.3d 1115, 1116-
27 1118 (9th Cir. 2004) (remanding to the district court to conduct proceedings and consider
28 evidence as necessary to determine subject matter jurisdiction).

First, the complaint fails to allege the principal place of business of Plaintiff
corporation RDX Technologies.¹ *Hertz Corp. v. Friend*, 559 U.S. 77, 80, 92-93 (2010)

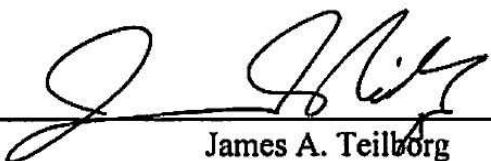
¹ The complaint only alleges that RDX is a Canadian corporation.

1 (discussing the citizenship of a corporation). Second, the complaint fails to allege the
2 names and citizenship of each partner of Defendant CWT Canada II Limited Partnership.
3 *Carden v. Arkoma Associates*, 494 U.S. 185, 195-96 (1990) (discussing the citizenship of
4 limited partnerships).² Third, the complaint fails to allege the citizenship of all partners
5 in Defendant Changing World Technologies, LP.³ Fourth, no allegation of citizenship of
6 any kind is made for the following individual Defendants: 1) Jean Noelting; 2) Jane Doe
7 Noelting; 3) Bruce MacFarlane; 4) Jane Doe MacFarlane; 5) Brian Appel; and 6) Jane
8 Doe Appel. *See generally Kanter*, 265 F.3d 857-58. Fifth, the complaint makes no
9 showing that the amount in controversy exceeds the jurisdictional minimum. *See*
10 *generally Valdez*, 372 F.3d at 1116-1118. Sixth, diversity jurisdiction will not exist if
11 both the Plaintiff and the Defendant are foreign, which appears to be true in this case.
12 *See Nike, Inc. v. Comercial Iberica de Exclusivas Deportivas, S.A.*, 20 F.3d 987, 990 (9th
13 Cir. 1994).

14 Based on the foregoing,

15 **IT IS ORDERED** that Plaintiffs shall file a supplement to the complaint by June
16 16, 2017 properly alleging federal subject matter jurisdiction or this case will be
17 dismissed without prejudice for lack of jurisdiction.

18 Dated this 9th day of June, 2017.

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James A. Teilborg
Senior United States District Judge

23 ² The complaint does state each partner of this Defendant is either incorporated or
24 resides in Canada. However, that allegation does not include a principal place of
25 business for corporations nor does it include citizenship, as opposed to residence, for
26 each individual. *See Hertz*, 559 U.S. at 92-93; *Kanter v. Warner-Lambert*, 265 F.3d 853,
857-858 (9th Cir. 2001) (discussing that residence is not citizenship for purposes of
diversity). Beyond these flaws, however, and consistent with *Valdez*, the Court must
review the citizenship of each limited partner, and not a generic assertion.

27 ³ The complaint states that this Defendant is a Delaware partnership. This
28 allegation is irrelevant to determining citizenship for purposes of diversity. *See Carden*,
494 U.S. at 195-96 (holding that partnerships take on the citizenship of every general and
limited partner).