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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Navigators Insurance Company,	)	
	)	
Plaintiff,	)	No. CV-10-8089-PCT-PGR
	)	
vs.	)	
	)	
BR Consulting, Inc., et al.,	)	<u>ORDER</u>
	)	
Defendants.	)	
<hr style="border: 0.5px solid black;"/>		

In a complaint filed on June 1, 2010, the plaintiff alleges that the Court has diversity of citizenship jurisdiction over this declaratory judgment action pursuant to 28 U.S.C. § 1332. Having reviewed the complaint, the Court finds that the jurisdictional allegations therein are insufficient as a matter of law to establish the existence of subject matter jurisdiction. The Court will therefore require the plaintiff to file an amended complaint properly stating a jurisdictional basis for this action. See 28 U.S.C. § 1653; see also, Smith v. McCullough, 270 U.S. 456, 459, 46 S.Ct. 338, 339 (1926) ("The established rule is that a plaintiff, suing in federal court, must show in his pleading, affirmatively and distinctly, the existence of whatever is essential to federal jurisdiction, and, if he does not do so, the court, on having the defect called to its attention or on discovering the same, must

1 dismiss the case, unless the defect be corrected by amendment.")

2 The jurisdictional allegation concerning defendant Seung Heun Lee is  
3 facially deficient because it merely states that he is "an individual residing at 80  
4 Rufous Lane, Sedona, Arizona 86336." It is black letter law that an allegation of  
5 residency does not suffice for purposes of § 1332. See Steigleder v. McQuesten,  
6 198 U.S. 141, 143, 25 S.Ct. 616, 617 (1905) ("It has long been settled that  
7 residence and citizenship [are] wholly different things within the meaning of the  
8 Constitution and the laws defining and regulating the jurisdiction of the ... courts  
9 of the United States; and that a mere averment of residence in a particular state  
10 is not an averment of citizenship in that state for the purpose of jurisdiction.");  
11 accord, Kanter v. Warner-Lambert Co., 265 F.3d 853, 857-58 (9<sup>th</sup> Cir. 2001)  
12 (Plaintiffs' complaint ... state[s] that Plaintiffs were 'residents' of California. But the  
13 diversity jurisdiction statute, 28 U.S.C. § 1332, speaks of citizenship, not of  
14 residency. ... [The] failure to specify Plaintiffs' state of citizenship was fatal to [the]  
15 assertion of diversity jurisdiction.")

16 The plaintiff is advised that its failure to timely file an amended complaint  
17 that cures the pleading deficiency noted in this Order shall result in the dismissal  
18 of this action for lack of subject matter jurisdiction. Therefore,

19 IT IS ORDERED that the complaint is dismissed for lack of subject matter  
20 jurisdiction.

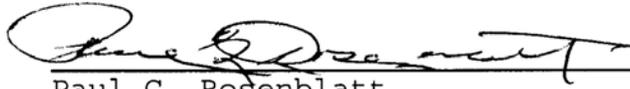
21 IT IS FURTHER ORDERED that the plaintiff shall file an amended  
22 complaint properly stating a jurisdictional basis for this action no later than **June**  
23 **14, 2010.**

24 IT IS FURTHER ORDERED that the plaintiff shall immediately serve a  
25 copy of this Order upon any defendant who has already been served with  
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process.

DATED this 3<sup>rd</sup> day of June, 2010.

  
Paul G. Rosenblatt  
United States District Judge