

1 **WO**

2

3

4

5

6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8

9 Lisa Jensen, et al.,

No. CV 11-8165-PCT-JAT

10 Plaintiff,

ORDER

11 vs.

12 EMC Mortgage LLC,

13 Defendants.

14

15

16 On November 23, 2011, the Court issued the following Order

17 “Inquiring whether the court has jurisdiction is a federal judge’s first duty
18 in every case.” *Belleville Catering Co. v. Champaign Market Place, L.L.C.*,
19 350 F.3d 691, 693 (7th Cir. 2003). In this case, the Complaint pleads
20 jurisdiction based on 28 U.S.C. § 1332, which is diversity. However, the
21 Complaint fails to adequately allege the citizenship of the parties such that this
22 Court can independently assess its jurisdiction.

23 Specifically, both Defendants (one is now dismissed) are corporations;
24 thus they are citizens of their states of incorporation and its principal places of
25 business. *Hertz Corp. v. Friend*, 130 S. Ct. 1181, 1192; - - - U.S. - - - (2010).
26 While Plaintiff pleaded a principal place of business for each Defendant, it
27 failed to plead a state of incorporation. Because Plaintiff failed to plead either
28 state of incorporation, Plaintiff failed to allege diversity jurisdiction.
Therefore,

IT IS ORDERED that by December 19, 2011, Plaintiff shall file an
amended complaint properly alleging federal subject matter jurisdiction or this
case will be dismissed, without prejudice.

Doc. 16

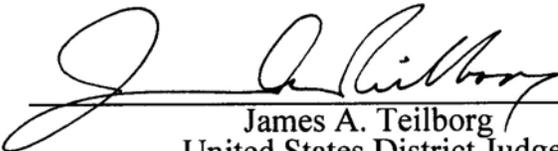
Plaintiffs filed an amended complaint and alleged that the only remaining Defendant,
EMC Mortgage Corporation, became a limited liability company before the complaint in this
case was filed. Plaintiff then alleges a state of “incorporation” and principal place of

1 business for the LLC. However, as *Belleville Catering* holds, a limited liability company
2 takes on the citizenship of its members. *See* Doc. 16; *see also Johnson v. Columbia*
3 *Properties Anchorage, L.P.*, 437 F.3d 894, 899 (9th Cir. 2006). Therefore, Plaintiffs have still
4 failed to plead diversity jurisdiction. Accordingly,

5 **IT IS ORDERED** that by January 9, 2012, Plaintiffs shall file a second amended
6 complaint properly alleging Federal subject matter jurisdiction, or this case will be dismissed
7 without any further opportunities to amend.

8 DATED this 4th day of January, 2012.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


James A. Teilborg
United States District Judge