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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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City of Chandler,

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No. CV 10-0072-PHX-JAT

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Plaintiff,

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ORDER

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vs.

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Walter Robert Hansen,

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Defendant.

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In this case, Defendant Walter Robert Hansen, has “removed” this case from the city of Chandler’s municipal court. It appears from Defendant’s filing that he was cited and fined by the city of Chandler for a photo-radar ticket. Procedurally, Defendant has cited no law that would allow him to “remove” a municipal traffic citation to federal court. Moreover, in the notice of removal, Defendant includes a prayer for relief in which Defendant seeks various declaratory and monetary relief. Procedurally, Defendant cannot seek relief in a notice of removal. Accordingly, Defendant will be permitted one opportunity to file an amended notice of removal. If Defendant fails to allege a procedural and jurisdictional basis for removal, this case will be remanded to the city of Chandler municipal court.¹

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¹ Even liberally assuming Defendant intended the prayer for relief to ultimately become a counterclaim, federal subject matter jurisdiction must exist based on Plaintiff’s complaint. *See Takeda v. Northwestern Nat. Life Ins. Co.*, 765 F.2d 815, n. 9 (9th Cir. 1985) (“[U]nder the present statutory scheme as it has existed since 1887, a defendant may not

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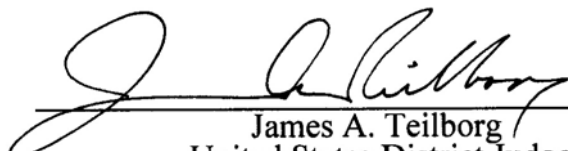
1 Further, because Defendant earns between \$2,400 and \$3,400 monthly, the Court finds
2 Defendant has the resources to pay the filing fee. Thus, the motion to proceed in forma
3 pauperis will be denied. Accordingly, Defendant will be required to pay the filing fee or this
4 case will be remanded to the city of Chandler municipal court.

5 Finally, Defendant failed to comply with Civil Local Rule 3.7(a) which requires that,
6 “The notice [of removal] must contain an affirmative statement that a copy of the notice has
7 been filed with the clerk of the state court from which the action or prosecution has been
8 removed.” If the amended notice of removal fails to comply with Civil Local Rule 3.7(a),
9 this case will be remanded to the city of Chandler municipal court.

10 **IT IS ORDERED** that the motion to proceed in forma pauperis (Doc. #5) is denied;
11 Defendant must pay the filing fee by February 8, 2010 or the Clerk of the Court shall remand
12 this case to the city of Chandler municipal court without further order of this Court.

13 **IT IS FURTHER ORDERED** that (assuming Defendant has paid the filing fee)
14 Defendant shall file an amended notice of removal properly alleging federal subject matter
15 jurisdiction by February 16, 2010.

16 DATED this 26th day of January, 2010.

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20 James A. Teilborg
United States District Judge

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28 remove a case to federal court unless the *plaintiff's* complaint establishes that the case ‘arises
under’ federal law.’”) quoting *Franchise Tax Board v. Construction Laborers Vacation Trust*,
463 U.S. 1, 10 (1983).