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

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9	Yolanda Christie,)	No. CV-12-931-PHX-LOA
10	Plaintiff,)	ORDER
11	vs.)	
12)	
13	Dr. Joseph Abdo; PA Jie Dang; Banner Hospital; Dr. Dana Kosmala-Runkle,)	
14	Defendants.)	
15)	

16 After the Court ordered *pro se* Plaintiff to file an amended complaint on or before
17 Friday, May 18, 2012, because her complaint failed on its face to demonstrate diversity of
18 citizenship pursuant to 28 U.S.C. § 1332,¹ Plaintiff filed a Motion to Remand to the Arizona
19 Superior Court for Maricopa County. (Doc. 10) Plaintiff’s Motion concedes the parties’
20 citizenship is not completely adverse and “[t]here are no federal questions before the Court.”
21 (*Id.* at 4) Plaintiff provides no authority, however, that the Court may remand a case to state
22 court that was originally filed in a federal district court. The Court construes Plaintiff’s
23 Motion as a motion to voluntarily dismiss her Complaint without prejudice.

24 Unlike state courts, “[f]ederal courts are courts of limited jurisdiction. They possess

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27 ¹ Federal courts have original jurisdiction over “all civil actions where the matter in
28 controversy exceeds the sum or value of \$75,000” and there is complete diversity of
citizenship between the parties opposed in interest. 28 U.S.C. § 1332(a); *Hunter v. Philip
Morris USA*, 582 F.3d 1039, 1043 (9th Cir. 2009).

1 only that power authorized by Constitution and statute[.]” *Kokkonen v. Guardian Life Ins.*
2 *Co. of Am.*, 511 U.S. 375, 377 (1994). The right to remove a case to federal court or remand
3 a case to state court are entirely creatures of statute. *Libhart v. Santa Monica Dairy Co.*, 592
4 F.2d 1062, 1064 (9th Cir. 1979). The removal statute, 28 U.S.C. § 1441, allows defendants
5 to remove a state court case that could have been filed originally in federal court under either
6 federal question or diversity jurisdiction. 28 U.S.C. §§ 1441(a), (b). “[I]f at any time before
7 final judgment it appears that the district court lacks subject matter jurisdiction, the case shall
8 be remanded” 28 USC § 1447(c). If a district court determines that venue is improper,
9 a court “shall dismiss, or if it be in the interest of justice, transfer such case to any district
10 [court] . . . in which it could have been brought.” 28 U.S.C. § 1406(a); *see also Maysey v.*
11 *CraveOnline Media, LLC*, 2009 WL 3740737 (D.Ariz. November 5, 2009).

12 There is no federal statute or rule which authorizes a district court to remand or
13 transfer a case to a state court if the action was originally filed in district court and the
14 district is without subject-matter jurisdiction to decide the case. *See* Rule 12(h)(3),
15 Fed.R.Civ.P. (“If the court determines at any time that it lacks subject-matter jurisdiction,
16 the court must *dismiss* the action.”) (emphasis added); *Cornwall v. Garcia*, 2009 WL
17 1953053 (C.D.Cal. July 2, 2009); *Bradgate Associates, Inc. v. Fellows, Read & Associates*,
18 999 F.2d 745, 749 (3rd Cir. 1993) (“[W]hen a district court lacks subject matter jurisdiction
19 over a case filed in federal court, the Federal Rules of Civil Procedure require the court to
20 dismiss the case. Fed.R.Civ.P. 12(h)(3). In contrast, when the court lacks jurisdiction to
21 entertain a case removed from state court, 28 U.S.C. § 1447(c) requires it to remand the case
22 to the court from which it was removed.”); *Hadley v. Haw. Gov’t Employees’ Ass’n*, 281
23 Fed. Appx. 683, * 1 (9th Cir. 2008) (affirming district court’s refusal to transfer action to
24 state court because § 1631 only provides for transfer of claims between federal courts);
25 *Moravian Sch. Advisory Bd. v. Rawlins*, 70 F.3d 270, 274 (3d Cir. 1995) (“Because [28
26 U.S.C.] §§ 1631 and 610 clearly demonstrate that Congress intended to limit the authority
27 of the federal courts to transfer cases only to other federal courts, we have held that § 1631
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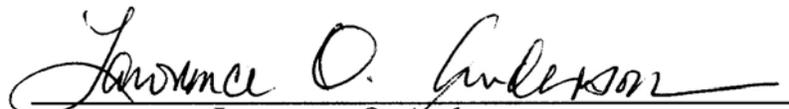
1 provides no authority for a federal court to transfer a case over which it lacks jurisdiction to
2 a state court.”) (citation omitted).

3 The Court will dismiss Plaintiff’s Complaint without prejudice for lack of subject-
4 matter jurisdiction. *See Naegele v. Tonius*, 320 Fed.Appx. 550, * 1 (9th Cir. 2009) (“The
5 district court did not abuse its discretion by *sua sponte* dismissing Naegele’s state law claims
6 for lack of diversity jurisdiction after providing an opportunity to amend the complaint to
7 address its concerns regarding domiciliary status.”).

8 **IT IS ORDERED** that Plaintiff’s motion to voluntarily dismiss her Complaint
9 without prejudice, doc. 10, is **GRANTED**. The Clerk is kindly directed to terminate this
10 action.

11 **IT IS FURTHER ORDERED** that Defendant Jie Ding’s Motion to Dismiss, doc.
12 7, and Banner Health’s Motion to Dismiss for Lack of Jurisdiction, doc. 8, are **DENIED** as
13 moot.

14 Dated this 17th day of May, 2012.

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17 Lawrence O. Anderson
18 United States Magistrate Judge
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