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

8 Maurice Patterson,

9 Plaintiff,

10 v.

11 Maricopa County,

12 Defendant.

No. CV-13-01402-PHX-GMS

ORDER

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14 Pending before the Court is Plaintiff Maurice Patterson's Motion to Amend the
15 Pleading, (Doc. 14). For the reasons discussed below, the Court grants the Motion.

16 Patterson filed an action against Defendant Maricopa County (the "County") in the
17 Maricopa County Superior Court on July 1, 2013, alleging a state law negligence claim
18 and violations of his federal constitutional rights under the Fourth, Fifth, Sixth, Eighth,
19 and Fourteenth Amendments. (Doc. 1-1 (State Court Complaint) at 17.) On July 12, the
20 County removed the action to this Court under 28 U.S.C. §§ 1441(a) and 1446(b) based
21 on federal question jurisdiction. (Doc. 1 at 2.)

22 After removing the case to this Court, the County moved to dismiss the Complaint
23 with prejudice and without leave to amend. (Doc. 11.) In response, Patterson first moved
24 to amend his Complaint to remove the federal claims on July 29. (Doc. 9.) But the Court
25 denied Patterson's Motion for failure to comply with Local Rule 15.1 which required him
26 to include a redlined version of the amended pleading with the Motion. (Doc. 12.)

27 Patterson again moves to amend the Complaint. (Doc. 14). The proposed
28 amendments delete the federal law claims and allege additional state law claims arising

1 under the Arizona Constitution. (*See* Doc. 14 at 3–4.) Along with his Motion to Amend,
2 Patterson requests the Court to remand the action back to state court or, in the alternative,
3 allow him to voluntarily dismiss it without prejudice so that he may refile the action in
4 state court. (*Id.* at 1.)

5 A plaintiff may amend a complaint once as a matter of course within 21 days of
6 serving it. Fed. R. Civ. P. 15(a)(1)(A). After 21 days, a plaintiff may only amend a
7 complaint with the court’s permission. The court “should freely give leave when justice
8 so requires.” *Id.* 15(a)(2). Patterson first moved to amend within 21 days of the action’s
9 removal to this Court but did not provide a redlined version of the Complaint. Because
10 Patterson has not yet amended his Complaint and provides his proposed amendments
11 with the current Motion, the Court will grant leave to amend.

12 The County contends that the Court had federal question jurisdiction over the
13 action at the time of removal; therefore, it requests the Court to exercise supplemental
14 jurisdiction over the state law claims and consider their merits even if the federal law
15 claims are now discarded. “In determining the existence of removal jurisdiction, based
16 upon a federal question, the court must look to the complaint *as of the time the removal*
17 *petition was filed*. Jurisdiction is based on the complaint as originally filed and not as
18 amended.” *Abada v. Charles Schwab & Co., Inc.*, 300 F.3d 1112, 1117 (9th Cir. 2002)
19 (quoting *O’Halloran v. Univ. of Wash.*, 856 F.2d 1375, 1379 (9th Cir. 1988)) (emphasis
20 in original).

21 Because Patterson alleged violations of his federal constitutional rights in his
22 original Complaint, the Court had jurisdiction at the time of removal. The Complaint as
23 amended, however, does not state such claims. A district court may decline to exercise
24 supplemental jurisdiction over a claim if it has dismissed all claims over which it has
25 original jurisdiction. 28 U.S.C. § 1367(c)(3). It is also in the interest of “economy,
26 convenience, fairness, and comity,” *Brady v. Brown*, 51 F.3d 810, 816 (9th Cir. 1995),
27 that Patterson’s state law claims arising under the Arizona Constitution be adjudicated in
28 state court.

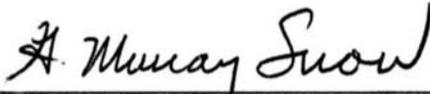
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IT IS THEREFORE ORDERED that Plaintiff Maurice Patterson’s Motion to Amend the Pleading, (Doc. 14), is **granted**.

IT IS FURTHER ORDERED that this action is remanded to state court. The Clerk of Court is directed to remand this action back to the Maricopa County Superior Court.

IT IS FURTHER ORDERED that Defendant Maricopa County’s Motion to Dismiss, (Doc. 11), is **denied as moot**.

Dated this 23rd day of September, 2013.



G. Murray Snow
United States District Judge