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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Michael DiPietro,

10 Petitioner,

11 v.

12 Martina Hutchinson, et al.,

13 Respondents.

No. CV-14-00502-PHX-DGC

ORDER

14 Respondent First Allied Securities Inc. (“First Allied”) has filed a motion to strike
15 the Amended Petition for Declaratory Relief and to Vacate or Modify Arbitration.
16 Doc. 47. The motion is fully briefed and no party has requested oral argument. The
17 Court will grant the motion in part and deny it in part.

18 Petitioner Michael DiPietro filed a 30-page petition on March 12, 2014, seeking
19 declaratory relief and vacature or modification of an arbitration award. Doc. 1.
20 Petitioner simultaneously filed a motion requesting permission to “exceed by ten pages
21 the presumptive 17-page limit” for his petition. Doc. 8. On March 18, 2014, the Court
22 granted Petitioner’s motion in part and permitted him to file a petition of 25 pages.
23 Doc. 11. Petitioner did not file the revised petition until three months later. Doc. 35. In
24 the amended petition, Petitioner asserts factual allegations in support of his legal
25 arguments that did not appear in his original petition, namely the unavailability of key
26 witnesses due to the Arizona venue (Doc. 35 at 16: 15-16; 16: 25-26; 23: 22-23; 24: 2-3).

27 Petitioner filed the amended petition long after the 21-day window for amendment
28 as a matter of course had closed (Fed. R. Civ. P. 15(a)(1)), and the Court’s order granting

1 additional pages (which were fewer than the original petition) did not authorize him to
2 amend his petition with new factual allegations (*see* Doc. 11). Petitioner should have
3 complied with Rule 15(a)(2) and Local Rules 15.1(a) and (b) if he wished to amend his
4 petition. The Court will strike the new facts regarding witness availability from the
5 petition (Doc. 35 at 16: 15-16; 16: 25-26; 23: 22-23; 24: 2-3). The rest of the amended
6 petition will remain.

7 **IT IS ORDERED** that First Allied's motion to strike (Doc. 47) is **granted in part**
8 and **denied in part** as set forth above.

9 Dated this 25th day of July, 2014.

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14 David G. Campbell
15 United States District Judge
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