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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 David Gay,

10 Plaintiff,

11 v.

12 Almira D. Guderjohn, et al.,

13 Defendants.
14

No. CV-15-01545-PHX-DGC

ORDER

15 At the case management conference, the Court concluded that it likely lacks
16 subject matter jurisdiction, but granted Plaintiff's request to file a memorandum citing
17 relevant authority. The Court has reviewed the memorandum (Doc. 13) and concludes
18 that it lacks subject-matter jurisdiction.

19 **I. Background.**

20 Plaintiff was struck by a car while riding his motorcycle in July of 2013. Doc. 1-2
21 at 44. Plaintiff filed a complaint in Maricopa County Superior Court alleging negligence
22 and fraudulent transfer against the driver. Doc. 1-2 at 8-10. While litigating those
23 claims, Plaintiff received \$177,045.26 from the C.H. Robinson Worldwide Inc. welfare
24 benefit plan (the Robinson Plan) for medical expenses. *Id.* at 46. The Robinson Plan is
25 governed by ERISA. *Id.*

26 Plaintiff moved pursuant to Arizona Rule of Civil Procedure 19(a) to add the
27 Robinson Plan as an involuntary plaintiff in the state case, and the state court granted the
28 motion. Doc. 1-2 at 36. Plaintiff then filed a motion challenging the validity of the

1 Robinson Plan's lien rights against any settlement Plaintiff might receive from
2 Defendant. *Id.* at 44. The Robinson Plan filed a notice of removal, alleging that the
3 motion's challenge to the subrogation rights of the ERISA plan raises a question of
4 federal law. Doc. 1 at 4-5.

5 **II. Analysis.**

6 A cause of action arises under federal law "only when the plaintiff's well-pleaded
7 complaint raises issues of federal law." *Metro. Life Ins. Co. v. Taylor*, 481 U.S. 58, 63
8 (1987). "The 'well-pleaded complaint rule' is the basic principle marking the boundaries
9 of federal question jurisdiction of the federal district courts." *Id.*

10 Plaintiff has filed a motion challenging the Robinson Plan's subrogation rights
11 (Doc. 1-2 at 44-50), but it is well settled that federal question jurisdiction must be based
12 on the complaint. *Metro. Life Ins.*, 481 U.S. at 63. Plaintiff's complaint contains no
13 ERISA-related claim and no challenge to the Robinson Plan's subrogation rights. *See*
14 Doc. 1-2 at 8-10 (alleging only negligence and fraudulent transfer). The Court therefore
15 lacks subject-matter jurisdiction.

16 Plaintiff's memorandum argues that the Court has subject-matter jurisdiction, but
17 none of the cases cited in the memorandum arose in the same procedural posture as this
18 case. In *Speciale v. Seybold*, 147 F.3d 612 (7th Cir. 1998), the ERISA plan gave the
19 plaintiff notice that the plan was entitled to reimbursement. *Id.* at 614. The plaintiff filed
20 a motion in a pending state-court action to apportion settlement funds among the plan and
21 other lienholders, and the plan removed the case to federal court. *Id.* The plaintiff
22 argued on appeal that the case should not have been removed because "the motion to
23 adjudicate fell under her well-pleaded complaint which alleged a state law claim of
24 personal injury, neither of which presented a federal question." *Id.* The Seventh Circuit
25 agreed, finding that the plaintiff's "claim of personal injury was not a cause of action that
26 falls within the scope of an ERISA provision nor did her state law claim require
27 resolution of an interpretation of the contract governed by federal law." *Id.* at 615. The
28 case was remanded to state court. *Id.* at 617.

1 In the other cases cited in the memorandum, the plaintiffs filed complaints that
2 named the ERISA plan as a defendant and raised a federal question. In *White v. Humana*
3 *Health Plan, Inc.*, No. 1:06-CV-05546, 2007 WL 1297130 (N.D. Ill. May 2, 2007), the
4 ERISA plan was a named defendant and the plaintiff challenged the plan's subrogation
5 provisions in the complaint. *Id.* at *1. In *Osterman v. Smith*, No. 3:10-CV-03220, 2011
6 WL 1343056 (C.D. Ill. March 17, 2011), the plaintiff filed a petition that later became an
7 amended complaint after the case was removed to federal court. *Id.* (Doc. 12). The
8 petition was in all relevant respects a complaint – it contained numbered paragraphs,
9 named the ERISA plan as a defendant, and contained a prayer for relief. *Id.* In *Wausau*
10 *Supply Co. v. Murphy*, Nos. 13-CV-698-WMC, 13-CV-759-WMC, 2014 WL 2565555
11 (W.D. Wis. June 6, 2014), the plaintiff added the ERISA plan as a subrogated defendant
12 and the plan was allowed to assert counterclaims against the plaintiff. *Id.* at *2-3. The
13 case was removed to federal court after the plaintiff made a “claim that the ERISA plan
14 wrongfully sought reimbursement of previously paid health benefits.” *Id.* at *4.

15 Each of these cases included a complaint that raised ERISA issues, and removal of
16 the cases to federal court therefore complied with the well-pleaded complaint rule.
17 Plaintiff cites no case in which a federal court obtained subject-matter jurisdiction solely
18 on a federal question raised in a motion.

19 **IT IS ORDERED** that the Clerk shall remand this case to Maricopa County
20 Superior Court.

21 Dated this 12th day of November, 2015.

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26 David G. Campbell
27 United States District Judge
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