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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

RICHARD SHUPE,
Plaintiff,
vs.
CRICKET COMMUNICATIONS,
INC.,
Defendant.

No. CIV 13-1052-TUC-CKJ (BPV)

ORDER

On December 13, 2013, Magistrate Judge Bernardo P. Velasco issued a Report and Recommendation (Doc. 22) in which he recommended that the Motion to Dismiss (Doc. 4) be denied as moot, the Motion to Dismiss Amended Complaint (Doc. 13) be granted with leave to amend, the Motions to Remand (Docs. 5 and 12) be denied, and the Motion to Amend or Correct the Amended Complaint (Doc. 19) be denied. The magistrate judge advised the parties that written objections to the Report and Recommendation were to be filed within fourteen days of service of a copy of the Report and Recommendation pursuant to 28 U.S.C. § 636(b). No objection has been filed.

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Further, under 28 U.S.C. § 636(b)(1), if a party makes a timely objection to a magistrate judge's recommendation, then this Court is required to "make a de novo determination of those portions of the [report and recommendation] to which objection is made." The statute does not "require [] some lesser review by [this Court] when no objections are filed." *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985). Rather, this Court is not required to conduct "any review at all . . . of any issue that

1 is not the subject of an objection." *Id.* at 149. Nonetheless, the Court has reviewed and
2 considered the Report and Recommendation and finds it well-supported and well-taken.

3
4 *Amended Complaint*

5 The Court, as discussed by the magistrate judge, has provided the reasons for the
6 dismissal so Plaintiff can make an intelligent decision whether to file a Third Amended
7 Complaint. *See Bonanno v. Thomas*, 309 F.2d 320 (9th Cir. 1962); *Eldridge v. Block*, 832
8 F.2d 1132 (9th Cir. 1987). Additionally, Plaintiff should take notice that if he fails to timely
9 comply with every provision of this Order, this action will be dismissed pursuant to
10 Fed.R.Civ.P. 41(b). *See Ferdik v. Bonzelet*, 963 F.2d 1258 (9th Cir.) (district court may
11 dismiss action for failure to comply with any order of the Court), *cert. denied*, 506 U.S. 915
12 (1992).

13
14 Accordingly, IT IS ORDERED:

- 15 1. The Report and Recommendation (Doc. 22) is ADOPTED.
- 16 2. The Motion to Dismiss (Doc. 4) is DENIED AS MOOT.
- 17 3. The Motions to Remand (Docs. 5 and 12) are DENIED.
- 18 4. The Motion to Amend or Correct the Amended Complaint (Doc. 19) is
19 DENIED.
- 20 5. The Motion to Dismiss Amended Complaint (Doc. 13) is GRANTED WITH
21 LEAVE TO AMEND. Plaintiff shall have thirty (30) days from the date of filing this Order
22 to file a Third Amended Complaint.
- 23 6. Any Third Amended Complaint must be retyped or rewritten in its entirety and
24 may not incorporate any part of the prior complaints or subsequent pleadings by reference.
25 Any Third Amended Complaint submitted by Plaintiff shall be clearly designated as a Third
26 Amended Complaint on the face of the document. Any Third Amended Complaint shall
27 comply with the requirements of Fed.R.Civ.P. 8(a), 10(a), and 11(a).

