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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Joshua David Mellberg LLC, et al.,

10 Plaintiffs,

11 v.

12 Jovan Will, et al.,

13 Defendants.
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No. CV-14-02025-TUC-CKJ (LCK)

ORDER

15 On June 21, 2019, Magistrate Judge Lynnette C. Kimmins issued a Report and
16 Recommendation (Doc. 480) in which she recommended the Court enter an Order granting
17 Plaintiffs' Motion to Strike Answer of Defendant Arceo and Enter Default (Doc. 449). The
18 Report and Recommendation advised the parties that Federal Rule of Civil Procedure 37
19 provides for five factors for the Court to consider before sanctioning a party for failing to
20 comply with a discovery order. Judge Kimmins determined that four of the five factors
21 favored striking Defendant Arceo's Answer and entering his default.

22 The Report and Recommendation also advised the parties that, pursuant to Federal
23 Rule of Civil Procedure 72(b)(2), any party may serve and file written objections within
24 fourteen (14) days of being served with a copy of the Report and Recommendation. No
25 objections have been filed within the time provided by Fed. R. Civ. P. 72(b)(2).¹

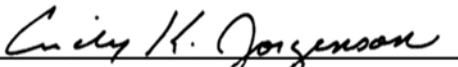
26 ¹ The standard of review that is applied to a magistrate judge's report and recommendation
27 is dependent upon whether a party files an objection – the Court need not review portions
28 of a report to which a party does not object. *Thomas v. Arn*, 474 U.S. 140, 150 (1985).
However, the Court must “determine de novo any part of the magistrate judge's disposition
that has been properly objected to. The district judge may accept, reject, or modify the
recommended disposition; receive further evidence; or return the matter to the magistrate

1 After an independent review, the Courts finds it appropriate to adopt the Report and
2 Recommendation and grant Plaintiffs' Motion (Doc. 449).

3 Accordingly, IT IS ORDERED:

- 4 1. The Report and Recommendation (Doc. 480) is **adopted**.
- 5 2. Plaintiffs' Motion to Strike Answer of Defendant Arceo and Enter Default
6 (Doc. 449) is **granted**.
- 7 3. The Clerk of the Court shall strike Defendant John Steve Arceo's Answer
8 (Doc. 81) and enter his default.

9 Dated this 15th day of July, 2019.

10 
11 Honorable Cindy K. Jorgenson
12 United States District Judge
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28 judge with instructions.” Fed. R. Civ. P. 72(b)(3); *see also* 28 U.S.C. § 636(b)(1).
Nonetheless, “while the statute does not require the judge to review an issue de novo if no
objections are filed, it does not preclude further review by the district judge, sua sponte or
at the request of a party, under a de novo or any other standard.” *Thomas*, 474 U.S. at 154.