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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Amanda F Miller,

10 Plaintiff,

11 v.

12 Adam Sedlmeier, et al.,

13 Defendants.  
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No. CV-16-00140-TUC-JGZ (EJM)

**REPORT AND  
RECOMMENDATION**

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16 **I. BACKGROUND**

17 Plaintiff Amanda F. Miller filed this action on February 16, 2016 in the Eastern  
18 District of New York (Doc. 1), and this matter was subsequently transferred to the  
19 District of Arizona on March 8, 2016. On April 19, 2016, this Court dismissed Plaintiff's  
20 Complaint for failure to comply with Rule 8 of the Federal Rules of Civil Procedure and  
21 granted Plaintiff leave to file an Amended Complaint. (Doc. 13).

22 Plaintiff filed her Amended Complaint against Defendant Tucson Police  
23 Department ("TPD") on May 16, 2016. (Doc. 15).<sup>1</sup> Plaintiff's Amended Complaint  
24 alleges claims for: (1) conspiracy to defraud the government; (2) false, fictitious, or  
25 fraudulent claims; (3) conspiracy against rights, deprivation of rights under color of law,  
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27 <sup>1</sup> Plaintiff's original Complaint named Maritza Galaz, Adam Sedlmeier, Scott  
28 Kendrick and Russel L. Pope as defendants. Plaintiff's Amended Complaint only names  
TPD as a defendant. All documents filed by attorney Baird Stephen Greene purport to be  
on behalf of Sedlmeier, Pope, Kendrick, and TPD.

1 and violation of freedom of religion and expression; and (4) neglect for failing to prevent  
2 officers from committing offenses. Plaintiff demands \$48,000 in damages for pain and  
3 suffering.

4 Pending before the Court is Defendants' Motion to Dismiss Plaintiff's Amended  
5 Complaint for failure to comply with the Rule 8 pleading standard. (Doc. 17). Defendants  
6 also argue that TPD is a non-jural entity and must be dismissed as a party to this suit. *Id.*  
7 Plaintiff filed a Response (styled as an "Answer") (Doc. 21), and Defendants filed a  
8 Reply (Doc. 23). Plaintiff also filed a Clarification of Answer (Doc. 28), which  
9 Defendants move to strike as an improper response to Defendants' Reply (Doc. 31).

10 Also pending before the Court is Plaintiff's Motion for Permission to Correct  
11 Form of Pleading Complaint. (Doc. 26). Defendants filed a Response (Doc. 27), but  
12 Plaintiff did not file a Reply.

13 Also pending before the Court is Plaintiff's Motion for Partial Summary Judgment  
14 and Statement of Facts. (Doc. 36). Defendants filed a Motion to Strike the Motion for  
15 Summary Judgment. (Doc. 46).

16 Additional pending documents include the following: Plaintiff's Interrogatory  
17 (Doc. 32) and Defendants' Motion to Strike (Doc. 33); Plaintiff's Motion for Permission  
18 to Serve Supplementary Pleading and Questionnaire/Opposition to Defendant's Motions  
19 to Strike (Doc. 34) and Defendants' Response (Doc. 35); Plaintiff's Evidence of  
20 Damages (Doc. 39); Plaintiff's Motion to File Damages under Seal (Doc. 44); Plaintiff's  
21 Lodged Proposed Hospital Records (Doc. 45); two Judgment in a Civil Action forms  
22 filed by Plaintiff (Docs. 47 & 48); and Plaintiff's Motion for Leave to File Notice of  
23 Removal (Doc. 50). Plaintiff also filed several documents from a Maricopa County  
24 Superior Court case. (Docs. 40, 41, 42, & 43).

25 Pursuant to the Rules of Practice of this Court, this matter was referred to the  
26 undersigned for a Report and Recommendation. (Doc. 16). For the reasons stated below,  
27 the Magistrate Judge recommends that the District Court grant Defendants' Motion to  
28 Dismiss Plaintiff's Amended Complaint (Doc. 17) and grant Plaintiff's Motion for

1 Permission to Correct Form of Pleading Complaint (Doc. 26). The Magistrate Judge  
2 further recommends that Documents 28, 32, 39, 40, 41, 42, 43, 47, and 48 be struck from  
3 the record, that that Plaintiff's Motion for Partial Summary Judgment (Doc. 36),  
4 Plaintiff's Motion for Permission to Serve Supplementary Pleading and  
5 Questionnaire/Opposition to Defendant's Motions to Strike (Doc. 34), and Plaintiff's  
6 Motion for Leave to File Notice of Removal (Doc. 50) be denied. Finally, the  
7 undersigned recommends that Plaintiff's Motion to File Damages under Seal (Doc. 44)  
8 be granted.

## 9 II. ANALYSIS

### 10 A. Motion to Dismiss

11 Defendants request that the Court dismiss Plaintiff's Amended Complaint for  
12 failure to comply with Rule 8 and Rule 10(b) of the Federal Rules of Civil Procedure, and  
13 failure to comply with the Court's order requiring Plaintiff to plead her claims with  
14 specificity. Defendants also note that Plaintiff's Amended Complaint omits the originally  
15 named defendants but adds TPD as a defendant, which Defendants argue is a non-jural  
16 entity incapable of being sued.

#### 17 i. Rule 8 Pleading Standard

18 Pursuant to Fed. R. Civ. P. 8(a), a complaint must contain a "short and plain  
19 statement of the grounds for the court's jurisdiction," a "short and plain statement of the  
20 claim showing that the pleader is entitled to relief," and "a demand for the relief sought . .  
21 ." While Rule 8 does not demand detailed factual allegations, "it demands more than an  
22 unadorned, the-defendant-unlawfully-harmed-me accusation." *Ashcroft v. Iqbal*, 129 S.  
23 Ct. 1937, 1949 (2009). "Threadbare recitals of the elements of a cause of action,  
24 supported by mere conclusory statements, do not suffice." *Id.*

25 In order to state a claim on which relief may be granted, a pleading must contain  
26 "sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its  
27 face." *Id.* Facial plausibility is present when the plaintiff pleads factual content, as  
28 opposed to legal conclusions, that allows a court to draw the reasonable inference that the

1 defendant is liable for the alleged misconduct. *Id.* The Plaintiff must allege enough facts,  
2 if taken as true, to suggest that a claim exists. This does not impose a probability  
3 requirement at the pleading stage; it simply calls for enough facts to raise a reasonable  
4 expectation that discovery will reveal evidence to support the claim(s). *Bell Atlantic*  
5 *Corp. v. Twombly*, 127 S.Ct. 1955, 1966 (2007). “[F]actual allegations must be enough to  
6 raise a right to relief above the speculative level,” or the complaint is subject to dismissal.  
7 *Id.* at 1965.

8 Here, Plaintiff’s Amended Complaint invokes this Court’s jurisdiction pursuant to  
9 28 U.S.C. § 1331, which grants the district courts jurisdiction over “all civil actions  
10 arising under the Constitution, laws, or treaties of the United States.” However, Plaintiff’s  
11 Amended Complaint fails to comply with the Rule 8 pleading standard because it is not  
12 clear what actions, if any, form the basis of Plaintiff’s claim for relief against the  
13 Defendants. The Court is unable to guess at what transpired between the parties, and it is  
14 impossible to attribute any specific acts to any specific defendant. *See McHenry v. Renne*,  
15 84 F.3d 1172, 1177 (9th Cir.1996) (the complaint must set forth “who is being sued, for  
16 what relief, under what theory, with enough detail to guide discovery”). As Defendants  
17 note, they have “labored to understand the confusing and incoherent allegations of the  
18 Plaintiff’s complaint, but have been unable to make any sense of it and do not have an  
19 understanding of the claims made by the Plaintiff.” (Doc. 17 at 2).

20 Further, while this is a civil action, Plaintiff’s Amended Complaint does not  
21 actually cite any federal civil law in support of her claims against Defendants, but rather  
22 cites to various federal criminal statutes. While Plaintiff appears to allege claims for  
23 violation of her rights to freedom from government oppression, freedom of religion, and  
24 freedom of expression, she fails to cite any federal law in support of these claims, or any  
25 relevant facts to explain the basis of the claims.

26 It is clear that Plaintiff feels she was wronged in some way. However, Plaintiff  
27 cannot file a civil action as a means to compel the federal court to pursue federal criminal  
28 charges against Defendants. Further, the Court will not require Defendants to answer a

1 complaint that fails to comply with the Rule 8 pleading standard and fails to properly  
2 apprise Defendants of the nature of the claims against them and the legal theories behind  
3 those claims. Accordingly, the undersigned recommends that the District Court grant  
4 Defendants' Motion to Dismiss Plaintiff's Amended Complaint for failure to comply  
5 with Rule 8 and Rule 10(b) of the Federal Rules of Civil Procedure.

6 ii. Dismissal of TPD

7 Defendants also argue that Defendant TPD should be dismissed from Plaintiff's  
8 Amended Complaint because it is a non-jural entity not subject to suit.<sup>2</sup>

9 Whether a government entity has the capacity to be sued is determined by state  
10 law. Fed. R. Civ. P. 17(b)(3). "Governmental entities have no inherent power and possess  
11 only those powers and duties delegated to them by their enabling statutes." *Brillard v.*  
12 *Maricopa Co.*, 224 Ariz. 481, 487 (2010). "In Arizona, a government entity may be sued  
13 only if the legislature has given that entity the power to be sued." *Payne v. Arpaio*, 2009  
14 WL 3756679, \*3 (D. Ariz. Nov. 4, 2009). In *Brillard*, the court noted that "there is a  
15 consensus among Arizona federal decisions that city police departments generally are  
16 nonjural entities." *Id.* (citing *Payne*, 2009 WL 3756679 at \*4 (collecting cases)). For  
17 example, in *Gotbaum v. City of Phoenix*, 617 F.Supp.2d 878, 886 (D. Ariz. 2008), the  
18 court found that the Phoenix Police Department was a subpart of the city, not a separate  
19 entity subject to suit. *See also Hill v. City of Phoenix*, 2014 WL 4980001, at \*2 (D. Ariz.  
20 Oct. 6, 2014) (same); *Brown v. City of Chandler*, 2013 WL 3199731, at \*2 (D. Ariz. June  
21 24, 2013) (same); *Patterson v. Arizona Dep't of Econ. Sec.*, 2015 WL 4755075, at \*2 (D.  
22 Ariz. Aug. 12, 2015), *appeal dismissed* (Sept. 15, 2015), *appeal dismissed* (Oct. 20,

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24 <sup>2</sup> While Defendants focus their argument in terms of Plaintiff's failure to properly  
25 plead a § 1983 claim against a municipal defendant, the Court finds that the proper  
26 inquiry is whether TPD is subject to suit at all. Defendants also misquote Judge  
27 Ferguson's concurring opinion in *United States v. Kama*, 394 F.3d 1236, 1239-40 (9th  
28 Cir. 2005), wherein he noted that "municipal police departments and bureaus are  
generally *not* considered 'persons' within the meaning of 42 U.S.C. § 1983." (emphasis  
added). While municipalities can be sued under § 1983 if a municipal policy or custom  
caused the constitutional injury, *Leatherman v. Tarrant Cty. Narcotics Intelligence &*  
*Coordination Unit*, 507 U.S. 163, 166 (1993), in the present case Plaintiff does not allege  
a § 1983 claim, nor does she name a municipality as a defendant.

1 2015) (Mesa Police Department “is not a jural entity subject to suit” in its own name);  
2 *Sannoufi v. Krueger*, 2014 WL 5488952, at \*8 (D. Ariz. Oct. 29, 2014) (granting  
3 summary judgment for defendants on plaintiff’s § 1983 claims against Gilbert Police  
4 Department because “a department of a municipality is not a proper party to a suit.”).

5 Based on the lack of an Arizona statute granting city police departments the  
6 capacity to sue and be sued, prior court decisions dismissing police departments as non-  
7 jural entities, Plaintiff’s failure to address Defendants’ argument on this point (*see* LRCiv  
8 7.2(i)), and Plaintiff’s statement that she intends to hold each officer individually  
9 responsible for his or her actions, rather than hold the city liable for the conduct of its  
10 employees (Doc. 26 at 1), the undersigned recommends dismissal of the Tucson Police  
11 Department as a party to this action.

#### 12 **B. Motion to Correct Form of Pleading Complaint**

13 Plaintiff filed a Motion for Permission to Correct Form of Pleading Complaint  
14 (Doc. 26), which the Court will construe as a motion to file an amended complaint.  
15 Defendants urge the Court to deny Plaintiff’s Motion and grant their Motion to Dismiss.  
16 (Doc. 27). Plaintiff requests permission to correct her Complaint/Amended Complaint for  
17 the following reasons:

18 (1) plaintiff needs more time to clarify the plaintiff’s points in  
19 issue, based upon (2) plaintiff is without counsel and (3) ill-  
20 versed on the technicalities of such a proceeding; (4) plaintiff  
21 continually struggles with medical diagnoses of mental and  
22 physical disabilities; (5) whereas plaintiff experiences  
23 hardship with energy, concentration, and mood; and (6) that it  
24 would serve to justify to make clear that the plaintiff’s intent  
25 was to hold each Officer individually responsible for their  
26 own criminal actions or lack thereof, (7) rather than hold the  
27 City liable for the misconduct of its’ employees, (8) as each  
28 Officer is presumed competent to make their own personal  
29 decisions, (9) while plaintiff believes it would be improper to  
30 address the entity for the impropriety of certain particular  
31 individuals who coincidentally were employed to act in an  
32 official capacity.

33 (Doc. 26 at 1).

34 *An in forma pauperis*, pro se litigant should be given an opportunity to amend the  
35 complaint to overcome a deficiency unless it is clear that no amendment can cure the

1 defect. *See Potter v. McCall*, 433 F.2d 1087, 1088 (9th Cir. 1970); *Noll v. Carlson*, 809  
2 F.2d 1446, 1448 (9th Cir. 1987), *Lopez v. Smith*, 203 F.3d 1122, 1129–1131 (9th Cir.  
3 2000). Here, the Court has already granted Plaintiff leave to file a first amended  
4 complaint. However, at this juncture it is not clear that no amendment can cure the  
5 defects in Plaintiff’s complaint, and because Plaintiff is proceeding pro se, the  
6 undersigned recommends that Plaintiff be given another chance to file a Second  
7 Amended Complaint.<sup>3</sup>

8         Accordingly, the undersigned recommends that the District Court grant Plaintiff’s  
9 Motion for Permission to Correct Form of Pleading Complaint (Doc. 26).

### 10                   **C. Motion for Partial Summary Judgment**

11         Plaintiff moves for summary judgment on Count Four of her Amended Complaint,  
12 “Action for Neglect to Prevent.” (Doc. 36). Plaintiff’s Motion for Partial Summary  
13 Judgment improperly lists the City of Tucson as a defendant in the case caption, though it  
14 is not named as a defendant in Plaintiff’s Amended Complaint. Plaintiff contends that the  
15 City of Tucson “had knowledge of, yet neglected AND refused . . . to prevent the  
16 conspiratorial wrongs of at least 3 of its’ member officers . . . from threatening the overall  
17 health and welfare of . . . and depriving the plaintiff of, her civil privilege and  
18 constitutional right . . . to be free from demeaning city government oppression.” (Doc. 36  
19 at 1). Plaintiff demands \$350,000 and no less than \$500,000.00 in damages, and contends  
20 that “the defendant cannot, has not, and will not pose any genuine dispute to any of the  
21 material facts presented thus far” and asserts that a reasonable jury can only decide the  
22 case in her favor. *Id.* at 2.

23         As Defendants note, due to the pending Motion to Dismiss, no discovery has been  
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25                   <sup>3</sup> LRCiv 15.1(a) requires that “[a] party who moves for leave to amend a pleading  
26 must attach a copy of the proposed amended pleading . . . to the motion, which must  
27 indicate in what respect it differs from the pleading which it amends . . . .” While  
28 Plaintiff’s motion does not include a copy of her proposed amended pleading, Plaintiff’s  
motion does explain her intent to clarify the facts on which her claims are based and the  
defendants she intends to sue. Thus, the undersigned recommends that Plaintiff’s Motion  
for Permission to Correct Form of Pleading Complaint should not be denied based on her  
failure to comply with LRCiv 15.1(a).

1 conducted in this action, nor has the Court held its Rule 16 Scheduling Conference. At  
2 this juncture, Plaintiff's Motion for Partial Summary Judgment is premature and thus  
3 should be denied.

4 In addition, Plaintiff's motion does not comply with this Court's Local Rules.  
5 Pursuant to LRCiv 56.1, motions for summary judgment must include a separate  
6 statement of facts "setting forth each material fact on which the party relies in support of  
7 the motion." LRCiv 56.1(a). Each fact "must be set forth in a separately numbered  
8 paragraph and must refer to a specific admissible portion of the record where the fact  
9 finds support." *Id.* "A failure to submit a separate statement of facts in this form may  
10 constitute grounds for the denial of the motion." *Id.* Further, the memoranda of law filed  
11 in support of the motion "must include citations to the specific paragraph in the statement  
12 of facts that supports assertions made in the memoranda regarding any material fact on  
13 which the party relies in support of . . . the motion." LRCiv 56.1(e). Here, Plaintiff did  
14 not file a memorandum of law in support of her motion as required by LRCiv 56.1(e).  
15 Further, Plaintiff's separate statement of facts consists of conclusory allegations that  
16 purportedly establish Defendants' liability, but do little to advance the Court's  
17 understanding of the nature of Plaintiff's claims against Defendants. While Plaintiff is  
18 proceeding pro se, the Local Rules apply to all persons appearing before this Court,  
19 whether represented by counsel or not. *See* LRCiv 83.3(c). And, as the Court has  
20 previously cautioned Plaintiff, if Plaintiff chooses to proceed with this action, she must  
21 follow both the Federal Rules of Civil Procedure and the Local Rules. Thus, the  
22 undersigned further finds that Plaintiff's Motion for Partial Summary Judgment should be  
23 denied for failure to comply with LRCiv 56.1.

24 Finally, as noted above, the undersigned recommends that Defendants' Motion to  
25 Dismiss should be granted, as Plaintiff's Amended Complaint fails to comply with the  
26 Rule 8 pleading requirements and fails to state a plausible claim for relief. *See Ashcroft*  
27 *v. Iqbal*, 129 S. Ct. at 1949. Thus, if the District Court adopts the undersigned's  
28 recommendation to grant Defendants' Motion to Dismiss, then Plaintiff's Motion for

1 Partial Summary Judgment may also properly be denied as moot.

2 **D. Motion for Permission to Serve Supplementary Pleading and**  
3 **Questionnaire**

4 Plaintiff filed a Motion for Permission to Serve Supplementary Pleading and  
5 Questionnaire/Opposition to Defendant's Motions to Strike. Plaintiff seeks the Court's  
6 permission to serve her interrogatory request on Defendants and opposes Defendants'  
7 motion to strike her interrogatory request. Plaintiff states that she was unaware that she  
8 had to seek the Court's permission before serving and filing her interrogatory request,  
9 and requests that the Court deny Defendants' motion to strike because "the importance of  
10 said pleading and inquiry are fundamentally essential to the establishment of the  
11 plaintiff's claim." (Doc. 34 at 2). The undersigned disagrees. As noted above, the Court  
12 has yet to hold a Rule 16 Scheduling Conference in this matter, and no discovery or  
13 disclosure deadlines have been set. Plaintiff asserts that the Defendants "have failed  
14 multiple times to fairly respond to the substance of the plaintiff's allegations," (Doc. 32 at  
15 1), but Plaintiff does not seem to understand that Defendants properly responded to  
16 Plaintiff's Amended Complaint by filing a Motion to Dismiss, which must be ruled on by  
17 the Court before this litigation proceeds any further. Defendants are under no obligation  
18 at this time to respond to Plaintiff's interrogatory, and it would be procedurally improper  
19 for the Court to grant Plaintiff's request to allow her to serve the interrogatory on  
20 Defendants.

21 Accordingly, the undersigned recommends that Plaintiff's Motion for Permission  
22 to Serve Supplementary Pleading and Questionnaire/Opposition to Defendant's Motions  
23 to Strike be denied. (Doc. 34)

24 **E. Motion to File under Seal**

25 Plaintiff moves the Court to file proof of her damages under seal. Plaintiff's  
26 lodged proposed document consists of copies of medical records from Plaintiff's  
27 hospitalizations. The undersigned finds that these records should be filed under seal to  
28 protect the Plaintiff's confidential health information. Accordingly, the undersigned

1 recommends that the District Court grant Plaintiff's Motion to File under Seal. (Doc. 44).

2 **F. Motion for Leave to File Notice of Removal**

3 Plaintiff filed a Motion for Leave to File Notice of Removal. It is unclear what  
4 exactly Plaintiff is requesting in her motion, but she appears to be asking the Court to  
5 allow her to remove a pending criminal prosecution in state court to this Court. Such a  
6 request is both procedurally improper and outside of this Court's jurisdiction. This Court  
7 has no authority to remove Plaintiff's state criminal prosecution to federal court.  
8 Accordingly, the undersigned recommends that Plaintiff's Motion for Leave to File  
9 Notice of Removal be denied. (Doc. 50)

10 **G. Striking Documents from the Record**

11 Defendants move to strike several documents filed by Plaintiff, including  
12 Plaintiff's Clarification of Answer to Defendant's Motion to Dismiss (Doc. 28),  
13 Plaintiff's Interrogatory (Doc. 32), and Plaintiff's Motion for Summary Judgment (Doc.  
14 46).

15 Pursuant to LRCiv 7.2(m), a motion to strike may be filed if authorized by statute  
16 or rule, "or if it seeks to strike any part of a filing or submission on the ground that it is  
17 prohibited (or not authorized) by a statute, rule, or court order." Further, under Fed. R.  
18 Civ. P. 12(f), the Court may act on its own to "strike from a pleading an insufficient  
19 defense or any redundant, immaterial, impertinent, or scandalous matter." "It is well  
20 established that [d]istrict courts have inherent power to control their docket," *Atchison,*  
21 *Topeka & Santa Fe Ry. v. Hercules, Inc.*, 146 F.3d 1071, 1074 (9th Cir. 1998) (alteration  
22 in original) (internal quotations and citation omitted), including the authority to strike  
23 documents from the record, *Ready Transp., Inc. v. AAR Mfg., Inc.*, 627 F.3d 402 (9th  
24 Cir. 2010).

25 Upon review of the docket in this case, the undersigned recommends that the  
26 District Court strike the following documents from the record:

27 Document 28: Plaintiff's Clarification of Answer to Defendants' Motion to  
28 Dismiss should be struck from the record as an improper response or sur-reply to

1 Defendants' Reply to their Motion to Dismiss. Pursuant to LRCiv 7.2, parties are given  
2 leave to file a motion, a response, and a reply. The Local Rules do not permit a party to  
3 file a response or sur-reply to the opposing party's reply.

4 Document 32: Plaintiff's Interrogatory should be struck from the record as  
5 procedurally improper and premature at this juncture.

6 Document 39: The substance of Plaintiff's allegations in this document concern  
7 Plaintiff's alleged damages and would be more properly addressed in Plaintiff's Second  
8 Amended Complaint, should the District Court grant Plaintiff leave to file one. Thus, this  
9 document should be struck from the record.

10 Documents 40, 41, 42 and 43: These documents consist of a collection of filings  
11 from Maricopa County Superior Court which are immaterial to the case at hand and  
12 should be struck from the record.

13 Documents 47 and 48: These documents consist of identical "Judgment in a Civil  
14 Action" forms submitted by Plaintiff in support of her Motion for Partial Summary  
15 Judgment. No judgment has been entered in this case, and when judgment is entered, the  
16 Clerk of Court shall file the "Judgment in a Civil Action" form. Accordingly, Documents  
17 47 and 48 should be struck from the record as immaterial and improper filings.

### 18 **III. RECOMMENDATION**

19 The Magistrate Judge RECOMMENDS that the District Court:

- 20 1) GRANT Defendants' Motion to Dismiss Plaintiff's Amended Complaint and  
21 dismiss Defendant Tucson Police Department as a party to this action. (Doc. 17).
- 22 2) GRANT Plaintiff's Motion for Permission to Correct Form of Pleading  
23 Complaint. (Doc. 26).
- 24 3) GRANT Defendant's Motions to Strike. (Docs. 31 and 33).
- 25 4) DENY Defendant's Motion to Strike. (Doc. 46).
- 26 5) STRIKE Documents 28, 32, 39, 40, 41, 42, 43, 47, and 48 from the record.
- 27 6) DENY Plaintiff's Motion for Partial Summary Judgment. (Doc. 36).
- 28 7) DENY Plaintiff's Motion for Permission to Serve Supplementary Pleading and

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Questionnaire/Opposition to Defendant’s Motions to Strike. (Doc. 34)

8) GRANT Plaintiff’s Motion to File under Seal. (Doc. 44).

9) DENY Plaintiff’s Motion for Leave to File Notice of Removal. (Doc. 50).

Pursuant to 28 U.S.C. §636(b), any party may serve and file written objections within fourteen days after being served with a copy of this Report and Recommendation. A party may respond to another party’s objections within fourteen days after being served with a copy thereof. Fed. R. Civ. P. 72(b). No reply to any response shall be filed. *See id.* If objections are not timely filed, then the parties’ rights to de novo review by the District Court may be deemed waived. *See United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

Dated this 22nd day of September, 2016.

  
Eric J. Markovich  
United States Magistrate Judge