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4 **IN THE UNITED STATES DISTRICT COURT**
5 **FOR THE DISTRICT OF ARIZONA**

6
7 Sam E Moussa,

8 Plaintiff,

9 v.

10 County of Pima,

11 Defendant.

No. CV-17-00523-TUC-CKJ (LCK)

ORDER

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13 In this matter, Plaintiff filed a motion to remand which Magistrate Judge Kimmins
14 recommends this Court grant. *See* Docs. 15 (Motion to Remand) and 23 (Report &
15 Recommendation). The Court has reviewed all of the pertinent filings in this case,
16 including Defendant's Notice of Removal, Response to Plaintiff's motion, and Objections
17 to the Report & Recommendation (R&R). *See* Docs. 1, 17, and 24.

18 Defendant has objected to eight specific statements in the "Factual and Procedural
19 Background" of the R&R and further requests that the Court modify the report to clarify
20 a matter of state law. *See* Doc. 24.

21 A District Court reviews objected to portions of a magistrate judge's findings and
22 recommendations under a *de novo* standard. *See United States v. Reyna-Tapia*, 328 F.3d
23 1114, 1121 (9th Cir. 2003) ("the district judge must review the magistrate judge's
24 findings and recommendations *de novo if objection is made*, but not otherwise")
25 (emphasis in original).

26 The R&R does not misstate the law – nor does Defendant contend that it does. *See*
27 *generally*, Doc. 24. Once a federal court determines that it doesn't have subject-matter
28 jurisdiction, it must remand the case. *See Polo v. Innoventions Int'l, LLC*, 833 F.3d 1193,

1 1196 (9th Cir. 2016) (“Remand is the correct remedy because a failure of federal subject-
2 matter jurisdiction means [] that the federal courts have no power to adjudicate the
3 matter.”); *see also*, *Bruns v. Nat'l Credit Union Admin.*, 122 F.3d 1251, 1257 (9th Cir.
4 1997) (holding that remand for lack of subject matter jurisdiction “is mandatory, not
5 discretionary”).

6 Defendants do not object to the R&R’s conclusion that this Court lacks the
7 subject-matter jurisdiction to adjudicate this matter. Instead, Defendant objects to Judge
8 Kimmins’ expressing Plaintiff’s factual allegations as true for purposes of adjudicating
9 the motion to remand, and requests this Court modify the R&R to “clarify that the
10 allegations are disputed.” *See* Doc. 24 at pg. 2.

11 However, once a federal court determines that it lacks jurisdiction, further inquiry
12 into the matter must stop. *See* 28 U.S.C. § 1447(c) (“If at any time before final judgment
13 it appears that the district court lacks subject matter jurisdiction, the case shall be
14 remanded.”); *see also*, *Sinochem Int'l Co. v. Malaysia Int'l Shipping Corp.*, 549 U.S. 422,
15 431 (2007) (clarifying that when a federal court resolves a case “short of reaching the
16 merits ... the court will not ‘proceed at all’ to an adjudication of the cause”).

17 This Court undisputedly lacks the subject-matter jurisdiction to adjudicate this
18 case. *See* Doc. 23 (explaining that Plaintiff raises no claim that creates Article III
19 jurisdiction). Therefore, no further inquiry or explication on the facts or merits of
20 Plaintiff’s claim is warranted. *See Kircher v. Putnam Funds Tr.*, 547 U.S. 633, 640
21 (2006) (expounding Congress’s policy of quickly remanding cases where a federal court
22 lacks subject-matter jurisdiction).

23 Accordingly, IT IS ORDERED that the legal conclusions from Magistrate Judge
24 Kimmins’ R&R (Doc. 23) are ACCEPTED — this Court is without subject-matter
25 jurisdiction.

26 IT IS FURTHER ORDERED that Plaintiff’s Motion to Remand (Doc. 15) is
27 GRANTED.
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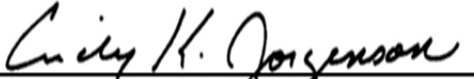
1 IT IS FURTHER ORDERED that Plaintiff's request for attorney's fees is
2 DENIED as Defendant's motion to remand was not objectively unreasonable due to
3 Plaintiff's reference (but not reliance upon) federal law incorporated into a state statute.
4 *See* Doc. 23 at pg. 8 (citing *Gardner v. UICI*, 508 F.3d 559 (9th Cir. 2007)).¹

5 IT IS FURTHER ORDERED that Defendant's Motion to Dismiss (Doc. 4) is
6 TERMINATED on CM/ECF as "moot."

7 IT IS FURTHER ORDERED that the Clerk of the Court enter judgment and close
8 this civil action.

9 IT IS FURTHER ORDERED that the Clerk of the Court mail a certified copy of
10 this Order to Pima County Superior Court.

11 Dated this 25th day of April, 2018.

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14 _____
15 Honorable Cindy K. Jorgenson
16 United States District Judge
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28 ¹ *See further, Prior v. Ryan*, 2012 WL 1344286, at *1 (D. Ariz. Apr. 18, 2012)
(acknowledging that the District Court reviews unobjected-to-portions of an R&R for
clear error).