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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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SCOTT HAMPTON,

Plaintiff,

v.

INSYS THERAPEUTICS, INC., *et al.*

Defendants.

Case No. 2:18-cv-00688-MMD-NJK

ORDER ACCEPTING AND ADOPTING  
REPORT AND RECOMMENDATION OF  
MAGISTRATE JUDGE  
NANCY J. KOPPE

Before the Court is Magistrate Judge Nancy J. Koppe's Report and Recommendation ("R&R" or "Recommendation") (ECF No. 20), recommending that this case be remanded for lack of subject matter jurisdiction. Defendants had until June 7, 2018, to file an objection. (*Id.* at 20.) To date, no objection to the R&R has been filed. Accordingly, the Court adopts the R&R with respect to remand.

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a *de novo* determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. *See United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review

1 employed by the district court when reviewing a report and recommendation to which no  
2 objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D.  
3 Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the view that  
4 district courts are not required to review "any issue that is not the subject of an objection").  
5 Thus, if there is no objection to a magistrate judge's recommendation, then the court may  
6 accept the recommendation without review. See, e.g., *Johnstone*, 263 F. Supp. 2d at 1226  
7 (accepting, without review, a magistrate judge's recommendation to which no objection  
8 was filed).

9 As noted, Defendants did not object to the R&R. Nevertheless, this Court finds it  
10 appropriate to engage in a *de novo* review in order to determine whether to adopt the  
11 R&R. The Magistrate Judge recommends that this Court reject Defendant Insys  
12 Therapeutics, Inc.'s fraudulent misjoinder argument. Upon review of the R&R and filings  
13 in this case, the Court agrees with the R&R and will adopt the recommendation to remand  
14 for lack of subject matter jurisdiction.

15 It is hereby ordered that the Magistrate Judge's Report and Recommendation (ECF  
16 No. 20) is accepted and adopted. Defendant's motion to sever (ECF No. 18) is denied  
17 without prejudice. The Court declines to address the motion to dismiss (ECF No. 17) in  
18 light of this remand order. Plaintiff's motion to remand (ECF No. 19) is denied as moot.

19 It is further ordered that this case is remanded.

20 The Clerk is directed to close this case.

21 DATED THIS 12<sup>th</sup> day of June 2018.

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24 MIRANDA M. DU  
25 UNITED STATES DISTRICT JUDGE  
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