

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

THE NECEDAH BANK,

Plaintiff,

OPINION AND ORDER

10-cv-648-slc¹

v.

JOHN A. GLAVIN,

Defendant.

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Defendant John Glavin has filed a notice of removal of a state replevin case filed in Circuit Court for Juneau County, Wisconsin. In the underlying state case, plaintiff The Necedah Bank claims that defendant is failing to make the monthly payments on a promissory note and consumer security agreement. It is seeking a money judgment as well as replevin of defendant's collateral. Plaintiff has filed a motion for remand to state court.

In determining whether removal is proper under 28 U.S.C. § 1441, a district court must construe the removal statute narrowly and resolve any doubts regarding subject matter jurisdiction in favor of remand. Doe v. Allied-Signal, Inc., 985 F.2d 908, 911 (7th Cir. 1993); Illinois v. Kerr-McGee Chemical Corp., 677 F.2d 571, 576 (7th Cir. 1982). I note that defendant has filed a series of notices of removal in this court within the last several

¹ For the purposes of issuing this order, I am assuming jurisdiction over the case.

months. Two of these cases have already been remanded by this court in part because defendant failed to file his notices of removal within 30 days of his receipt of the complaints in those actions, as required by the removal procedure set forth in 28 U.S.C. § 1446. M&I Marshall & Ilsley Bank v. Glavin, no. 10-cv-616-slc (W.D. Wis. Jan. 31, 2011); M&I Marshall & Ilsley Bank v. Glavin, no. 10-cv-503-slc (W.D. Wis. Jan. 10, 2011). Defendant's current notice of removal suffers from the same problem, so I will remand the case.

Plaintiff's complaint was filed in state court on July 22, 2010. Plaintiff submits a copy of a summons indicating that defendant received plaintiff's complaint on August 27, 2010 (Also, defendant filed his answer on September 15, 2010, so there is no question that he received the complaint at some point before September 15, 2010.) Defendant filed his notice of removal on October 27, 2010, which is more than 30 days after he received the complaint.

ORDER

IT IS ORDERED that this case is REMANDED to the Circuit Court for Juneau County, Wisconsin. The clerk of court is directed to return the record to the state court.

Entered this 29th day of March, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge