

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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 :
 PAUL A. LAWRENCE, :
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 Plaintiff, :
 :
 - against - :
 :
 JUGENS ELIADA LAGUERRE *et ano.*, :
 :
 Defendants. :
 ----- X

MEMORANDUM DECISION
AND ORDER

20-cv-5047 (BMC)

COGAN, District Judge.

Plaintiffs filed this action in the Supreme Court of the State of New York, County of Kings, on May 28, 2020. Defendants filed a notice of removal on the basis of diversity jurisdiction on October 21, 2020. That same day, I issued an order to show cause why the action should not be remanded to state court as untimely removed. I noted that plaintiff’s complaint provided notice that the parties had diverse citizenship and that plaintiff sought damages that “exceed[] the sum or value established by 28 U.S.C. § 1332(a).” Plaintiff’s complaint thus provided notice that the case was removable.

The time to remove an action is “30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading . . . or within 30 days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.” 28 U.S.C. § 1446(b)(1). Federal courts construe questions of removal narrowly, “resolving any doubts against removability.” Purdue Pharma L.P. v. Kentucky, 704 F.3d 208, 213 (2d Cir. 2013).

Defendants argue that the action was timely removed because they did not receive a copy of the summons and complaint until the week of October 19, 2020. But defendants’ counsel

received the summons and complaint on September 3, 2020. “Receipt of the initial pleadings by defendant’s attorney triggers the 30-day removal period under § 1446(b).” Bisesto v. Uher, No. 19-CV-1678, 2019 WL 2537452, at *4 (S.D.N.Y. June 20, 2019) (collecting cases). The Notice of Removal was not filed within thirty days of defendants’ counsel’s receipt of the complaint and thus is untimely.

Because this action was not timely removed, the case is remanded to the Supreme Court of the State of New York, County of Kings, case number 508369/2020.

SO ORDERED.

Digitally signed by
Brian M. Cogan

U.S.D.J.

Dated: Brooklyn, New York
October 28, 2020