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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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PNC Bank, National Association,

No. CV 11-596-PHX-JAT

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Plaintiff,

ORDER

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vs.

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David Branch; John Doe Occupant 1
(whose real name is John Moreau),

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Defendants.

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Defendant John Doe Occupant 1, whose real name is John Moreau, (“Moreau”) removed this case to Federal Court. Moreau alleges that this Court has subject matter jurisdiction based on a federal question. Specifically, Moreau alleges that jurisdiction is based on his claims of protection under the Protecting Tenants at Foreclosure Act of 2009. (Doc. 1 at 1).

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Typically, jurisdiction must be based on the allegations of the complaint. *See Takeda v. Northwestern Nat. Life Ins. Co.*, 765 F.2d 815, n. 9 (9th Cir. 1985) (“[U]nder the present statutory scheme as it has existed since 1887, a defendant may not remove a case to federal court unless the *plaintiff’s* complaint establishes that the case ‘arises under’ federal law.”) (quoting *Franchise Tax Board v. Construction Laborers Vacation Trust*, 463 U.S. 1, 10 (1983)).

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Accordingly, Defendant Moreau, as the party asserting jurisdiction, must file an amended notice of removal properly alleging federal subject matter jurisdiction. Moreau

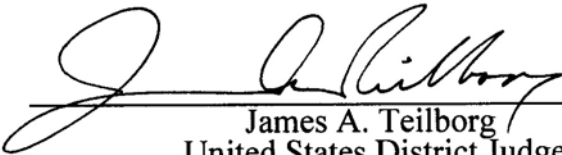
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1 must show either that jurisdiction arises from Plaintiff's complaint, or that the Protecting
2 Tenants at Foreclosure Act of 2009 specifically allows federal subject matter jurisdiction to
3 be based on a defense or counterclaim (whichever way Moreau intends to "claim" the
4 protections of the act). Therefore,

5 IT IS ORDERED that within 15 days of the date of this Order, Moreau shall file an
6 amended notice of removal properly alleging federal subject matter jurisdiction or this case
7 will be remanded for lack of federal subject matter jurisdiction.

8 DATED this 6th day of April, 2011.

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James A. Teilborg
United States District Judge