

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JS-6

CIVIL MINUTES -- GENERAL

Case No. **ED CV 17-524-JFW (DTBx)**

Date: April 6, 2017

Title: Carlos V. Farias -v- Quicken Loans, Inc., et al.

PRESENT:

HONORABLE JOHN F. WALTER, UNITED STATES DISTRICT JUDGE

**Shannon Reilly
Courtroom Deputy**

**None Present
Court Reporter**

ATTORNEYS PRESENT FOR PLAINTIFFS:

None

ATTORNEYS PRESENT FOR DEFENDANTS:

None

PROCEEDINGS (IN CHAMBERS):

**ORDER REMANDING ACTION TO SAN BERNARDINO
COUNTY SUPERIOR COURT;**

**ORDER STAYING REMAND ORDER UNTIL APRIL 11,
2017**

On February 3, 2017, Plaintiff Carlos V. Farias ("Plaintiff") filed a Complaint against Defendant Quicken Loans, Inc. ("Defendant") and Does 1 through 50 in San Bernardino County Superior Court. On March 20, 2017, Defendant filed a Notice of Removal of Action Under 28 U.S.C. § 1332 ("Notice of Removal").

Pursuant to 28 U.S.C. § 1446, a defendant seeking to remove a case to federal court "shall file in the district court . . . a notice of removal . . . containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action." 28 U.S.C. § 1446(a). 28 U.S.C. § 1446(b) provides that "[t]he notice of removal . . . shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based." 28 U.S.C. § 1446(b)(1). If the initial pleading does not provide a basis for removal, "a notice of removal may be filed within 30 days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable." 28 U.S.C. § 1446(b)(3).

Defendant was served with a copy of the Summons and Complaint on February 3, 2017, and filed its Notice of Removal more than thirty days later on March 20, 2017. Because Defendant could ascertain that this case was removable based on the allegations of the Complaint, Defendant's Notice of Removal was not timely filed. Although Defendants claims that "Plaintiffs

agreed to an extension of time of fifteen days for Quicken Loans to respond to the Complaint until March 20, 2017,” see Notice of Removal at ¶ 2, the thirty-day period is statutory and is not extended by a stipulation extending the time to file an answer or otherwise respond to the Complaint. See, e.g., *Ortiz v. Gen. Motors Acceptance Corp.*, 583 F. Supp. 526, 531 (N.D. Ill. 1984); *Galea v. Mayer*, 2010 WL 2511327, at *2 (C.D. Cal. June 17, 2010); *Shukov v. Isostent, LLC*, 2003 WL 1888863, at *1 (N.D. Cal. Apr. 14, 2003).

Accordingly, the Court hereby **REMANDS** this action to San Bernardino County Superior Court. See 28 U.S.C. § 1447(c). The Court **STAYS** this Order until **April 11, 2017**. Because Plaintiff originally filed this action in San Bernardino County Superior Court, the Court assumes that Plaintiff does not object to the remand of this action. However, in the unlikely event Plaintiff wishes to remain in federal court and thereby waive the procedural defect discussed above, Plaintiff shall notify the Court in writing on or before **April 11, 2017**. If Plaintiff instead prefers that this action be remanded to state court, Plaintiff may simply decline to file a waiver of the procedural defect.

IT IS SO ORDERED.