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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BANK UNITED,

Plaintiff,

No. C 11-1756 PJH

v.

ORDER

DAMIAN PETERS,

Defendant.

_____ /

Defendant Damian Peters removed this unlawful detainer action from the Superior Court of California, County of Sonoma, on April 8, 2011, alleging diversity jurisdiction. Plaintiff BankUnited seeks an order remanding the case, arguing that defendant has not met his burden of establishing subject matter jurisdiction.

In ruling on a motion to remand for lack of subject matter jurisdiction, the court looks to the face of the complaint. See Toumajian v. Frailey, 135 F.3d 648, 653 n.2 (9th Cir. 1998); see also Harris v. Bankers Life and Cas. Co., 425 F.3d 689, 692-93 (9th Cir. 2005). Here, however, while plaintiff makes certain representations in its motion regarding the state court complaint, no copy of the complaint has been presented to the court.

Ordinarily, it is the responsibility of the defendant to attach a copy of the complaint to the notice of removal. 28 U.S.C. § 1446(a). However, in view of defendant's pro se status, the court will require counsel for BankUnited to submit a declaration attaching a copy of the complaint that initiated this action. Counsel shall file the declaration no later than May 18, 2011.

IT IS SO ORDERED.

Dated: May 13, 2011



PHYLLIS J. HAMILTON
United States District Judge

United States District Court
For the Northern District of California