

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

FIRST BANK,

Plaintiff/Counterdefendant,

v.

Case No. 09-cv-970-JPG

DJL PROPERTIES, LLC,

Defendant/Counterplaintiff,

and

JONATHON E. GUTHERIE, LISA M  
GUTHERIE, AMERICAN BOTTOMS  
REGIONAL WASTEWATER  
TREATMENT FACILITY, METRO EAST  
SANITARY DISTRICT, THE VILLAGE OF  
SAUGET, ALL UNKNOWN OWNERS  
AND NON-RECORD CLAIMANTS,

Defendants.

**MEMORANDUM AND  
ORDER TO SHOW CAUSE**

This matter comes before the Court for case management purposes. This case originated in the Circuit Court for the Twentieth Judicial Circuit, St. Clair County, Illinois.

Plaintiff/counterdefendant First Bank's complaint alleges a state law claim for mortgage foreclosure. In response, defendant DJL Properties, LLC filed a class action counterclaim alleging state law causes of action under several Illinois statutes and a state law cause of action for breach of contract. Believing the class action counterclaim created original federal jurisdiction over this action under the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d)(2)(A), First Bank filed a notice of removal.

In light of Seventh Circuit admonitions, *see, e.g., America's Best Inns, Inc. v. Best Inns of*

*Abilene, L.P.*, 980 F.2d 1072 (1992), the Court has undertaken a rigorous initial review of pleadings to ensure that jurisdiction exists. Here it appears it does not because removal jurisdiction only exists where a defendant files a notice of removal. *See Shamrock Oil & Gas v. Sheets*, 313 U.S. 100, 107-08 (1941). Here, the plaintiff/counterdefendant is attempting to remove this case.

The Court **ORDERS** First Bank to **SHOW CAUSE** on or before December 23, 2009, why the Court should not remand this case to state court for lack of jurisdiction. Other parties shall have up to and including January 8, 2010, to reply to First Bank's response. No brief shall exceed ten pages, and the Court encourages the defendant/counterplaintiff and the defendants to consider filing a consolidated brief. The Court **RESERVES RULING** on First Bank's motion to set a deadline for a responsive pleading (Doc. 10) pending resolution of this jurisdictional issue.

**IT IS SO ORDERED.**  
**DATED: December 7, 2009**

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**