

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**OCWEN LOAN SERVICING LLC,**

**Plaintiff,**

**v.**

**TIMOTHY I. MOMAN,**

**Defendant.**

**Case No. 17-CV-2405-JAR-TJJ**

**MEMORANDUM AND ORDER**

Defendant Timothy I. Moman removed this action from the District Court of Johnson County, Kansas, on July 21, 2017, asserting diversity jurisdiction under 28 U.S.C. § 1332 (Doc. 1). In his notice of removal, Defendant stated that he “received notice of the Complaint on March 31, 2017, via the court clerk. Service has been effectuated by the court on February 7, 2017.”<sup>1</sup> On July 27, 2017, United States Magistrate Judge Teresa J. James issued an order granting Defendant’s motion to proceed in forma pauperis, and directing Defendant to show cause why this case should not be remanded to the District Court of Johnson County because Defendant filed his notice of removal more than 30 days after Defendant received a copy of Plaintiff’s initial pleading. As Judge James explained, under 28 U.S.C. § 1446(b)(1), a notice of removal must be filed “within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading.”

Defendant responded to the show cause order on August 15, 2017, stating that he filed the notice of removal beyond the 30-day deadline set forth in § 1446(b)(1) because, as a pro se

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<sup>1</sup>Doc. 1 at 2.

party, he was “still learning the rules of Federal Civil Procedure.”<sup>2</sup> “Although ‘[a] pro se litigant’s pleadings are to be construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers,’ ‘[t]his court has repeatedly insisted that pro se parties follow the same rules of procedure that govern other litigants.’”<sup>3</sup> The Court is not convinced that Defendant’s status as a pro se party and resulting unfamiliarity with procedural rules in itself amounts to the same level of good cause that courts have found in cases where untimely removal has been excused.<sup>4</sup> Accordingly, the Court remands this case to the District Court of Johnson County, Kansas based on Defendant’s failure to show good cause for his untimely removal of this case.

**IT IS THEREFORE ORDERED BY THE COURT** that this case is **remanded to the District Court of Johnson County, Kansas** based on Defendant’s failure to show good cause why this case was not timely filed under 28 U.S.C. § 1446(b)(1).

**IT IS SO ORDERED.**

Dated: October 19, 2017

S/ Julie A. Robinson  
JULIE A. ROBINSON  
CHIEF UNITED STATES DISTRICT JUDGE

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<sup>2</sup>Doc. 8 at 2.

<sup>3</sup>*Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005) (citations omitted).

<sup>4</sup>*See, e.g., Grover v. Comdial Corp.*, 275 F. Supp. 2d 750 (W.D. Va. 2003) (court accepting removal petition as timely filed based on defendant’s good faith attempt to file within prescribed time frame, where defendant attempted to file prior to 30-day deadline but was prevented from doing so by courthouse being closed due to weather).