

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

RICHARD PERRY PRATT,)	
)	
PLAINTIFF)	
)	
v.)	CIVIL No. 1:13-cv-249-DBH
)	
BANK OF AMERICA,)	
)	
DEFENDANT)	

**ORDER AFFIRMING RECOMMENDED DECISION
OF THE MAGISTRATE JUDGE**

On September 4, 2013, the United States Magistrate Judge filed with the court, with copies to the parties, her Recommended Decision. The plaintiff filed objections to the Recommended Decision on September 19 and September 25, 2013. I have reviewed and considered the Recommended Decision, together with the entire record; I have made a *de novo* determination of all matters adjudicated by the Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in the Recommended Decision, as clarified below, and determine that no further proceeding is necessary.

I also observe that the defendant was not in default because, under the Maine Rules of Civil Procedure governing service of process by mail, the time runs from the date when the defendant mails the acknowledgment of service. See Ford v. Nationwide Mutual Fire Ins. Co., Civil No. 01-133-P-H, 2001 WL 667834, at *1-2 (D. Me. June 13, 2001); 1991 Advisory Committee Note to Rule 4 (“the date on

which the defendant mails the acknowledgement, which constitutes acceptance of this form of service, is the date of service for purposes of the time for answer”); Charles Harvey, 2 Maine Practice Series at 152 (3d ed. 2011). Here, the defendant signed the acknowledgment on June 17, 2013, and there is no suggestion that it mailed the form before signing it. Thus, the defendant was not in default on July 8, 2013, when the plaintiff moved for default (under the Maine Rules, the time for answer is 20 days after service and, if that day is a Saturday, Sunday or legal holiday—here July 7, 2013, was a Sunday—then the next business day). The defendant timely removed the lawsuit to this court on July 8, 2013, see 28 U.S.C. § 1446(b)(1) (allowing 30 days for removal; here the defendant says that it first received the papers on June 13 and the plaintiff says June 11, both less than 30 days from July 8). The plaintiff’s other objections (*e.g.*, that this is a “Corporate Court” and that his case should be heard in a “Common Court” and that the defendant as a corporation cannot be treated as a citizen in determining federal jurisdiction under the diversity of citizenship provisions of federal statutes) are frivolous.

It is therefore **ORDERED** that the Recommended Decision of the Magistrate Judge is hereby **ADOPTED**. The plaintiff’s motions for remand and for entry of default are **DENIED**. The defendant’s motion to dismiss is **GRANTED**.

So ORDERED.

DATED THIS 21ST DAY OF OCTOBER, 2013

/s/D. BROCK HORNBY
D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE