

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

PAMELA T. KOCHHEL,

Plaintiff,

:

Case No. 3:10-cv-384

-vs-

District Judge Thomas M. Rose  
Magistrate Judge Michael R. Merz

:

TARGET NATIONAL BANK, et al.,

Defendant.

---



---

**DECISION AND ORDER**

---



---

This case was filed *in forma pauperis* by Plaintiff Pamela T. Kochel on October 18, 2010. Because the Court was unable to determine from the Complaint whether it properly stated a claim upon which relief could be granted, the Court on October 19, 2010, ordered the Clerk to issue process to the Marshal for service when received in proper form (Doc. No. 2). Process was issued on October 21, 2010 (Doc. No. 4), and there is as yet no return on that process.

On October 21, 2010, Plaintiff filed with this Court a Notice of Removal (Doc. No. 5) which purports to remove to this Court Case No. 2010 CVF 1049, Target National Bank v. Pamela Kochel, pending in Montgomery County Court Area 2. Another part of the same document is another Notice of Removal, this one with respect to Case No. 2010 CVF 1350, Capital One Bank (USA) N.A., also allegedly pending in Montgomery County Court Area 2. With respect to the latter case, the filing also include an Order by The Honorable James D. Piergies to transfer the case to the Montgomery County Common Pleas Court because of a counterclaim in excess of municipal court monetary jurisdiction.

There are several serious deficiencies with the Notice of Removal which prevent this Court from taking jurisdiction:

1. A plaintiff in a federal civil action cannot after filing remove into that case state court actions pending in other courts. Every case a party has in a state court as a defendant must be removed separately, under a separate federal court case number, into federal court. Every such removal

requires a separate filing fee or permission to proceed *in forma pauperis*.

2. The purported removals are untimely. In both Notices of Removal, Plaintiff says she received the summons and complaint on July 30, 2010. Under 28 U.S.C. § 1446, a notice of removal must be filed within thirty days of receipt by a state-court defendant of a copy of the initial pleading. Thus the time to file notices of removal on the two state court cases expired August 29, 2010. The Notices of Removal were not filed in this Court until October 21, 2010, almost two months late.
3. 28 U.S.C. § 1446 requires that a notice of removal be accompanied by all process, pleadings and orders of the state court. Plaintiff's filing is obviously not complete since the counterclaims are not filed here.
4. Although Plaintiff says this Court has subject matter jurisdiction because the claims in the two state court cases exceed \$75,000, the relevant jurisdictional statute, 28 U.S.C. § 1332, provides such jurisdiction in cases of diverse citizenship of the parties, only if the amount claimed in the complaint, **exclusive** of interest and counterclaims, exceeds \$75,000.

Accordingly, the Notice of Removal is STRICKEN. Plaintiff is ordered to file a copy of this Order with any state court with which she has filed the Notices of Removal and to file a certificate with this Court not later than November 15, 2010, that she has done so. She is likewise ordered to serve a copy of this Order on counsel for the plaintiff in each of the state court cases.

November 5, 2010.

s/ **Michael R. Merz**  
United States Magistrate Judge