

United States District Court
Southern District of Texas

ENTERED

March 24, 2017

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

BANK OF AMERICA, N.A.,

Plaintiff,

VS.

TIMOTHY J MCDADE

Defendant.

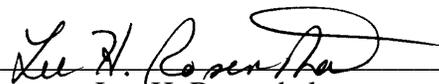
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. H-17-0406

ORDER

The initial conference in this case is scheduled for March 27, 2017 at 10:30 AM. The parties should come prepared to discuss whether this court has federal subject-matter jurisdiction. The case management plan filed with the court states that the basis for federal subject-matter jurisdiction is the defendant’s federal-law counterclaim under the FDCPA. But in general, federal-law counterclaims are not a basis for removal. *See Greene Home Owners Ass’n, Inc. v. Vogel*, No. CA 3:98-CV-2966-R, 1999 WL 292718, at *1 (N.D. Tex. Apr. 12, 1999). There appears to be some possibility that a federal-law counterclaim in a completely preempted area of law could generate federal subject-matter jurisdiction, but it does not appear that the FDCPA completely preempts state law. *Virgil v. Reorganized M.W. Co.*, 156 F. Supp. 2d 624, 630 (S.D. Miss. 2001). The parties should be prepared to address this potential jurisdictional issue at the initial conference.

SIGNED on March 24, 2017, at Houston, Texas.



Lee H. Rosenthal
Chief United States District Judge