

United States District Court
Southern District of Texas

ENTERED

August 23, 2017

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ALEJANDRO ZALDIVAR *et al.*,
Plaintiffs,

VS.

BANK OF AMERICA, N.A.,

Defendant.

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CIVIL ACTION NO. H-17-2330

ORDER DENYING MOTION TO DISMISS

The plaintiffs, Alejandro Zaldivar and Brian A. Brewer, filed their complaint in the Harris County District Court on June 3, 2017. Bank of America filed a timely Notice of Removal, (Docket Entry No. 1), on July 31, after receiving notice of the complaint on July 5. 28 U.S.C. § 1446(b). Pursuant to Rule 81(c)(2)(C), Bank of America had 7 days after filing its Notice of Removal to present any defenses or objections, which it did by filing a Rule 12(b)(6) Motion to Dismiss on August 4. (Docket Entry No. 4). Within 21 days of service of Bank of America’s motion, the plaintiffs filed an amended complaint as a matter of cause under Rule 15(a)(1)(B). (Docket Entry No. 8).

Bank of America’s Motion to Dismiss, (Docket Entry No. 4), is denied without prejudice as moot. Bank of America must file a motion to dismiss the plaintiffs’ amended complaint no later than September 15, 2017.

SIGNED on August 23, 2017, at Houston, Texas.



Lee H. Rosenthal
Chief United States District Judge