

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

ENERGIA DE RAMOS, S.A.P.I. de C.V.,
formerly known as DEACERO POWER,
S.A.P.I. de C.V.,

Plaintiff,

v.

CLAUDE HENDRICKSON,

Defendant.

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1:16-CV-1177-RP

ORDER

Before the Court is Plaintiff Energia de Ramos’s Motion for Remand. (Dkt. 4). By way of its motion, Plaintiff points out that Defendant’s Notice of Removal was untimely filed and requests that this Court remand this suit to the Travis County District Court, where it was initially filed.

Plaintiff filed suit against Defendant in state court in August 2016. Following several unsuccessful attempts at service in Texas, Plaintiff served Defendant with the state-court citation and its Original Petition by certified mail in accordance with state law governing service of process. Defendant acknowledges receipt of the citation and Original Petition on September 26, 2016. (Dkt. 11, at 1; *id.* Ex. A). Defendant filed his Notice of Removal on October 27, 2016, on the basis of this Court’s diversity jurisdiction.

Under 28 U.S.C. § 1446, a defendant seeking to remove a civil action from a state court must file his notice of removal within thirty days of receiving the initial pleading setting forth the plaintiff’s claim for relief. Defendant has admitted receiving Plaintiff’s Original Petition on September 26, 2016, so the statute required that he remove the action no later than October 26, 2017. As Defendant filed his Notice of Removal outside of that time period, removal was improper and the Court will **GRANT** Plaintiff’s Motion for Remand. (Dkt. 4).

IT IS THEREFORE ORDERED that this proceeding is hereby **REMANDED** back to the 345th Judicial District Court of Travis County, Texas, Cause No. D-1-GN-16-003815.

IT IS FURTHER ORDERED that the Clerk of the Court of the United States District Court for the Western District of Texas undertake all necessary actions to remand the removed action to the 345th Judicial District Court, Travis County, Texas.

IT IS FINALLY ORDERED that Defendant's Motion to Transfer Venue, (Dkt. 3), and Plaintiff's Motion for Leave to File Surreply, (Dkt. 10), are **DISMISSED AS MOOT**.

SIGNED on February 27, 2017.



ROBERT PITMAN
UNITED STATES DISTRICT JUDGE