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Pro Se

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DONGXIAO YUE,

Plaintiff,

vs.

CHUN-HUI MIAO, BIAN-WANG.COM

Defendants

Case No. C18-1074-DMR

DEFENDANT'S OBJECTION TO REPLY
EVIDENCE

Re: Dkt No. 24

Hearing Date: May 10, 2018

Time: 11:00 a.m.

Courtroom: 4 - 3rd Floor, Oakland Courthouse

Judge: The Honorable Donna M. Ryu

On March 22, 2018, Plaintiff filed his reply to Defendants' opposition to motion to remand to state court ("Yue Rep."). In his reply, Plaintiff presented new evidence to support his contention that Defendant's filing of the Notice of Removal was untimely.

Plaintiff asserts that "Docket item 1-2 shows that ... the filing fee was paid on February 20, 2018 with a credit card." (Yue Rep. 2). This is demonstrably false. Docket item 1-2 clearly shows that the fee was paid in full with a paper check #1192, not a credit card. (Decl. ¶ 3). The check was sent along with the Removal Notice, delivered on February 15, 2018. (Decl. ¶ 4).

Plaintiff also raised the issue of the cover sheet. (Yue Rep. 2). Defendant concedes that he initially did not complete the civil cover sheet, but "[t]he clerk must not refuse

1 to file a paper solely because it is not in the form prescribed by these rules or by a local rule or
2 practice.” Fed. R. Civ. P. 5(d)(4). Further, it is a curable technical defect. *Ackerberg v. Citicorp*
3 *USA, Inc.*, 887 F.Supp.2d 934, 938 (N.D.Cal. 2012). Defendant “cured” the defect promptly.
4 (Decl. ¶ 5-7).
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6 Respectfully submitted,

7 _____/s/_____.
8 Chun-Hui Miao
9 Bian-wang.com
10 *Pro Se*
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