

GAUTAM DUTTA, Attorney-at-Law

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December 21, 2011

Via Electronic Mail

Kassra P. Nassiri, Esq.  
Nassiri & Jung LLP  
47 Kearny St., Ste. 700  
San Francisco, CA 94108

Re: Hector Sol v. Pivotal Payments, Inc.  
*Notice of Improper Removal of State Court Action*

Dear Mr. Nassiri:

Our office represents Plaintiff Hector Sol. As you know, this matter was originally filed in the California Superior Court (Santa Clara County).

On November 19, 2011, service of Mr. Sol's Complaint was effected upon your client Pivotal Payments, Inc. ("Pivotal"). Shortly thereafter, Mr. Sol propounded discovery (the "Discovery") on Pivotal, and service of the Discovery was effected on December 5, 2011.

Thus, Pivotal was required to respond to file a response to Mr. Sol's Complaint no later than **December 19, 2011** (i.e., 30 days after November 19, 2011), and was required to respond to Mr. Sol's discovery no later than **January 4, 2012** (i.e., 30 days after December 5, 2011).

On December 13, 2011, you called our office to request an extension for both deadlines. You told me that you would be leaving town on December 16, 2011 for an extended family vacation and would not return to your office until December 29, 2011.

Based on your representations and as a professional courtesy, we agreed to extend the deadline to respond to Mr. Sol's Complaint *by over two weeks*, to **January 3, 2012**. We further agreed to extend the deadline to respond to the Discovery by one week, to **January 11, 2012**.

Yesterday, we were surprised to learn that your firm had filed an untimely, improper notice of removal (the "Removal Notice"). According to the Removal Notice, Pivotal was required to file a notice of removal "*within*

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thirty (30) days from November 19, 2011, the date upon which the Complaint was served on [Pivotal].”¹

However, the Removal Notice was not *filed* with the U.S. District Court (N.D. Cal.) until December 20, 2011 – *31 days* after Pivotal had been served with Mr. Sol’s Complaint. Because it was not filed within 30 days of November 19, 2011, the Removal Notice was not timely.

Your firm’s untimely, substantively flawed, and ill advised Removal Notice has needlessly delayed this litigation.

Accordingly, we ask that you remand this matter to the California Superior Court as soon as practicable, but no later than **December 23, 2011**. Otherwise, we will have no choice but to take all steps necessary to protect Mr. Sol’s legal rights, by promptly (1) filing a Motion to Remand, and (2) seeking attorney’s fees and sanctions to the fullest extent allowable by law.

Please contact our office with any questions. Thank you in advance for your cooperation.

Sincerely,

Gautam Dutta

Cc: Andrew R. Kislik, Esq.

¹ Pivotal Payment’s Dec. 20, 2011 Notice of Removal, Dkt. No. 1 ¶13 (italics added).