

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

SIDNEY LYLES,

Plaintiff,

v.

ALLSTATE INSURANCE COMPANY,

Defendant.

Case No. 3:20-cv-03473-MGL

**DEFENDANT'S NOTICE OF
REMOVAL**

Defendant Allstate Insurance Company ("Allstate"), by and through the undersigned counsel and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, hereby removes the civil action pending in the Court of Common Pleas for the Fifth Judicial Circuit, County of Richland, South Carolina, Case No. 2020CP4004117, to the United States District Court for the District of South Carolina, Columbia Division. In support of removal, Allstate states as follows:

1. On August 26, 2020, Plaintiff Sidney Lyles ("Lyles") commenced an action against Allstate by filing in the Court of Common Pleas for the Fifth Judicial Circuit, County of Richland, South Carolina, a complaint styled *Sidney Lyles v. Allstate Insurance Company*, Case No. 2020CP4004117. A copy of the Complaint and Summons served upon Allstate are attached as Exhibit 1 hereto.

2. The Complaint asserts claims against Allstate for breach of contract, tortious interference with contract, tortious interference with prospective economic opportunity and loss of prospective profits, conversion, and violation of the South Carolina Unfair Trade Practices Act, S.C. Code Ann. § 39-5-10, *et seq.* The South Carolina Department of Insurance accepted service of the Complaint on Allstate's behalf on August 31, 2020. (*See* Declaration of Wes Porter ("Porter Decl."), attached as Exhibit 2, ¶ 3.)

JURISDICTIONAL REQUIREMENTS

3. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a)(1), which grants to the United States District Courts original jurisdiction over “all civil actions where the matter in controversy exceeds the sum or value of \$75,000” and is between “citizens of different States.” This case meets all of the requirements for diversity jurisdiction.

4. First, complete diversity of citizenship exists between Allstate, a citizen of Illinois, and Lyles, a citizen of South Carolina. Per Paragraph 1 of the Complaint, Lyles is a citizen and resident of the County of Richland in the State of South Carolina. Allstate, meanwhile, is an Illinois corporation maintaining a principal place of business in Northbrook, Illinois.

5. A corporation shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business. *Hertz Corp. v. Friend*, 559 U.S. 77, 80 (2010). A corporation’s principal place of business is the place where the corporation’s officers direct, control, and coordinate the corporation’s activity, and, in practice, that place “should normally be the place where the corporation maintains its headquarters.” *Id.* at 92-93. Allstate’s headquarters in Northbrook, Illinois is indeed its principal place of business, and therefore Allstate is a citizen of Illinois. (Porter Decl. ¶ 2.)

6. Second, the amount in controversy requirement is satisfied. The sum claimed by the plaintiff controls the amount in controversy determination. *JTH Tax, Inc. v. Frashier*, 624 F.3d 635, 638 (4th Cir. 2010). “When a specific amount is not specified in the complaint, “the object which is sought to be accomplished by the plaintiff may be looked to in determining the value of the matter in controversy.” *Mattison v. Wal-Mart Stores, Inc.*, 2011 WL 494395, at *2 (D.S.C. Feb. 4, 2011). The court may consider the claims as alleged in the complaint, the notice of removal filed with the federal court, and other relevant materials. *Id.*

7. The prayer for relief on Page 9 of Lyles' Complaint does not claim a specific dollar amount, but seeks actual damages, to be trebled pursuant to S.C. Code Ann. § 39-5-10, as well as punitive damages, prejudgment interest, attorneys' fees, and costs, all of which are recoverable under the South Carolina Unfair Trade Practices Act. See S.C. Code § 39-5-140(a) (noting that courts, in instances of willful or knowing violations, "shall award three times the actual damages sustained and may provide such other relief as it deems necessary or proper" as well as "reasonable attorney's fees and costs"). Lyles claims losses associated with the value of his Allstate Exclusive Agency and the Book of Business he serviced through the Exclusive Agency. (Compl. ¶ 39.) He also alleges lost economic opportunities. (*Id.* at ¶¶ 45, 50).

8. Though Allstate denies the merits of Lyles' claims and denies that Lyles merits any award of relief, the only "reasonable interpretation" of Lyles' Complaint is that his claim exceeds \$75,000. See *Covington v. Syngenta Corp.*, 225 F.Supp.3d 384, 389-90 (D.S.C. 2016). As an initial matter, Lyles' Book of Business at issue is worth far more than \$75,000. (Porter Decl. ¶ 4.). Accordingly, for this reason alone, his claim exceeds \$75,000. See *Williams v. GlaxoSmithKline LLC*, No. 1:18-CV-01346-JMC, 2019 WL 211087, at *3 (D.S.C. Jan. 16, 2019) (finding that "[i]n many removal cases, a defendant's allegations rely to some extent on reasonable estimates, inferences, and deductions" and applying rule to hold that "[d]efendant sufficiently show[ed] the amount-in-controversy will likely exceed \$75,000.00" where though complaint "[did] not provide a monetary amount for recovery" the complaint did seek "lost back pay and future wages" and "[d]efendant meticulously alleged that [p]laintiff's annual salary when multiplied by the anticipated time between his termination and the trial of this matter, would exceed the jurisdictional minimum") (internal citations omitted). Moreover, Lyles' request for statutorily provided treble damages and punitive damages underline that the jurisdictional threshold is met.

See Mattison, 2011 WL 494395, at *3 (“In addition to her claim for actual and consequential damages in an undetermined amount, Ms. Mattison’s Complaint also includes a prayer for relief requesting actual damages, treble damages, punitive damages, and attorneys’ fees. Even though Ms. Mattison’s Complaint does not specify the exact amount of damages Ms. Mattison is claiming in this action, her request for punitive damages alone, which are properly considered for purposes of determining the amount in controversy, makes it difficult for Ms. Mattison to prove she could not possible recover the jurisdictional limit were she to prevail at trial.”); *see also Barker v. Washington Nat. Ins. Co.*, No. 9:12-CV-1901-PMD, 2013 WL 1767620, at *2 (D.S.C. Apr. 24, 2013) (holding that although plaintiff did not plead amount in controversy in the complaint, defendant made requisite amount in controversy showing where defendant presented evidence that “the actual amount in controversy at the time of removal appear[ed] to be at least \$40,000” and “because [plaintiff sought] actual and punitive damages, attorney’s fees, and costs against [defendant], the total amount in controversy exceed[ed] \$75,000”).

PROCEDURAL REQUIREMENTS

9. This Notice of Removal is timely because it is being filed within 30 days of Defendant being served with the Summons and Complaint on August 31, 2020 and within one year of the commencement of this action. 28 U.S.C. § 1446; *see generally Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999) (explaining the time for filing a notice of removal does not run until a party has been formally served with the summons and complaint under the applicable state law).

10. Because this action is brought in the Court of Common Pleas for the Fifth Judicial Circuit, County of Richland, South Carolina, venue for purposes of removal is proper in this Court

under 28 U.S.C. § 85: this District embraces Richland County, South Carolina, the place where the action was pending prior to removal. *See* 28 U.S.C. § 85; 28 U.S.C. § 1441(a).

11. In accordance with 28 U.S.C. §1446(a), a copy of all process, pleadings, and orders served on Defendant have been attached as Exhibit 1.

12. In accordance with 28 U.S.C. §1446(d), prompt written notice of this Notice of Removal is being sent to Lyles through his counsel, and to the Court of Common Pleas for the Fifth Judicial Circuit, County of Richland, South Carolina. A copy of the notice is attached as Exhibit 3.

13. The undersigned has read this Notice of Removal, and to the best of the undersigned's knowledge, information, and belief, formed after reasonable inquiry, certifies that Allstate's factual allegations have evidentiary support, and its legal contentions are warranted by existing law. The undersigned also certifies that this Notice of Removal is not interposed for any improper purpose, such as to harass, cause unnecessary delay, or needless increase on the cost of litigation.

CONCLUSION

For the reasons provided herein, Allstate hereby removes this case from the Court of Common Pleas for the Fifth Judicial Circuit, County of Richland, South Carolina to the United States District Court for the District of South Carolina, Columbia Division and further requests that the Court accept this Notice of Removal and assume jurisdiction over this matter for all further proceedings.

Dated: September 30, 2020

Respectfully submitted,

SEYFARTH SHAW LLP

/s/ Honore N. Hishamunda

Honore N. Hishamunda
Federal Bar No. 12578
hhishamunda@seyfarth.com
Lauren M. Gregory*
Georgia Bar No. 729061
lgregory@seyfarth.com
1075 Peachtree St. NE
Suite 2500
Atlanta, GA 30309

J. Scott Humphrey*
Illinois Bar No. 6239169
shumphrey@seyfarth.com
233 S. Wacker Drive
Suite 8000
Chicago, IL 60606

*Counsel for Defendant Allstate Insurance
Company*

**applying for admission pro hac vice*