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12 AMAZON.COM INC., AMAZON.COM SERVICES  
LLC, AND AMAZON WEB SERVICES, INC.

13  
14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA  
16

17 MICHELE OBRIEN, as an individual and on  
behalf of others similarly situated,,

18 Plaintiff,

19 vs.

20 AMAZON.COM INC., a Delaware  
21 corporation; AMAZON.COM SERVICES  
22 LLC, a Delaware limited liability corporation;  
23 AMAZON WEB SERVICES, INC., a  
Delaware corporation, and DOES 1 through  
100, inclusive,

24 Defendants.  
25  
26  
27  
28

Case No. 3:22-cv-348

**DEFENDANTS' NOTICE OF  
REMOVAL OF CLASS ACTION**

(Alameda County Superior Court Case No.  
21CV004153)

Action Filed: Dec. 15, 2021

1 TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
2 DISTRICT OF CALIFORNIA AND TO PLAINTIFF AND HER ATTORNEYS OF RECORD:

3 **PLEASE TAKE NOTICE THAT**, pursuant to 28 U.S.C. §§ 1332, 1441, 1453, 1711,  
4 and the Class Action Fairness Act of 2005 (“CAFA”), Defendants Amazon.com Inc.,  
5 Amazon.com Services LLC, and Amazon Web Services, Inc. (collectively “Amazon” or  
6 “Defendants”), hereby remove to the United States District Court for the Northern District of  
7 California the above-captioned state court action, originally filed as Case No. 21CV004153 in  
8 Alameda County Superior Court, State of California.

9 **I. INTRODUCTION**

10 1. Removal to this Court is proper under 28 U.S.C. §§ 1441, 1446, and 1453 because  
11 (i) the aggregate number of putative class members is 100 or greater, (ii) diversity of citizenship  
12 exists between one or more Plaintiffs and one or more Defendants, and (iii) the amount placed in  
13 controversy by the Complaint exceeds, in the aggregate, \$5 million,<sup>1</sup> exclusive of interests and  
14 costs. 28 U.S.C. §§ 1332(d)(2), 1332(d)(5)(B), and 1453.

15 2. Removal to this Court is also proper under 28 U.S.C. §1332 because (i) Plaintiff’s  
16 individual claims place more than \$75,000 in controversy, exclusive of interests and costs, (ii) the  
17 action involves citizens of different states, and (iii) no properly joined defendant is a citizen of  
18 California.

19 **II. PROCEDURAL BACKGROUND**

20 3. On December 15, 2021, Plaintiff Michele Obrien (“Plaintiff”) filed an unverified  
21 putative class action complaint in the Superior Court of the State of California, County of  
22 Alameda, entitled *Michele Obrien, an individual and on behalf others similarly situated, vs.*  
23 *Amazon.com Inc., a Delaware corporation; Amazon.com Services LLC, a Delaware limited*  
24

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25 <sup>1</sup> This Notice of Removal relies on the nature and amount of damages that Plaintiff’s Complaint  
26 places in controversy. Defendants refer to specific damage amounts and cite comparable cases  
27 solely to establish that the amount in controversy exceeds the jurisdictional minimum. But  
28 Defendants maintain that Plaintiff’s claims lack merit and that Defendants are not liable to  
Plaintiff or any member of the putative class for any amount whatsoever. Indeed, “[t]he amount in  
controversy is simply an estimate of the total amount in dispute, not a prospective assessment of  
[Defendant’s] liability.” *Lewis v. Verizon Communs., Inc.*, 627 F.3d 395, 400 (9th Cir. 2010).

1 liability corporation; Amazon Web Services, Inc., a Delaware Corporation, and Does 1 through  
2 100, inclusive, Case No. 21CV004153.

3 4. On December 17, 2021, Plaintiff served Defendants personally with the Summons,  
4 Complaint, Civil Case Cover Sheet, Alternative Dispute Resolution (ADR) Information Package,  
5 and ADR Stipulation on Amazon. Copies of these documents, as well as the Proofs of Service,  
6 are attached as Exhibits A-G to the Declaration of Brian D. Berry (“Berry Decl.”) in support of  
7 Defendants’ Notice of Removal.

8 5. In her Complaint, Plaintiff asserts causes of action on behalf of herself and  
9 members of the following putative class:

10 “all current and former employees of Amazon, aged 40 or older,  
11 who worked at Amazon warehouses or fulfillment centers in  
12 California and who have been or continue to be subjected to, or  
13 had to meet, any policy or practice of Amazon regarding ‘rate of  
production’ for their work and/or work production quotas during  
the period from December 15, 2017 to the present[.]”

14 Berry Decl. Ex. A, Compl. at ¶ 34.

15 6. The Complaint alleges three causes of action: (1) Age Discrimination in violation  
16 of the Fair Employment and Housing Act (“FEHA”) (Cal. Gov’t Code §§ 12940, *et seq.*);  
17 (2) Failure to Prevent or Correct Discrimination under FEHA (Cal. Gov’t Code § 12940(k)); and  
18 (3) Unfair Business Practices (violation of Cal. Bus. & Prof. Code §§17200, *et seq.*).

19 7. For purposes of this removal only, Amazon assumes the truth of Plaintiff’s  
20 allegations.

### 21 **III. REMOVAL IS TIMELY**

22 8. On December 17, 2021, Plaintiff served the Complaint through Amazon’s  
23 registered agent for service of process. *See* Berry Decl. ¶¶ 2, Exs. E-G. This Notice of Removal is  
24 timely because Amazon filed it within thirty days of service of the Summons and Complaint. 28  
25 U.S.C. §§ 1446(b), 1453; *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 354  
26 (1999) (“[I]f the summons and complaint are served together, the 30-day period for removal runs  
27 at once.”).

28

1 **IV. THIS COURT HAS ORIGINAL SUBJECT MATTER JURISDICTION UNDER**  
2 **CAFA.**

3 9. The Complaint purports to state claims on behalf of Plaintiff and members of a  
4 putative class. Compl. ¶ 2. Thus, removal based on CAFA diversity jurisdiction is proper under  
5 28 U.S.C. § 1441(a) if: (i) the amount placed in controversy by the Complaint exceeds, in the  
6 aggregate, \$5 million, exclusive of interest and costs, (ii) diversity of citizenship exists between  
7 one or more plaintiffs and one or more defendants, and (ii) the aggregate number of putative class  
8 members is 100 or greater. *See* 28 U.S.C. §§ 1332(d)(2), 1332(d)(5)(B), and 1453. As explained  
9 below, Plaintiff's Complaint satisfies these CAFA standards.<sup>2</sup>

10 **A. The Proposed Class Consists of More Than 100 Members.**

11 10. Plaintiff asserts claims on behalf of herself and "all current and former employees  
12 of Amazon, aged 40 or older, who worked at Amazon warehouses or fulfillment centers in  
13 California and who have been or continue to be subjected to, or had to meet, any policy or  
14 practice of Amazon regarding 'rate of production' for their work and/or work production quotas,  
15 during the period from December 15, 2017 to the present." Compl. ¶ 34.

16 11. Plaintiff alleges that "[t]he members of the class exceed 1,000 persons[.]" Compl.  
17 ¶ 36; *see also* Declaration of Nicole Bruno ("Bruno Decl.") ¶ 3.

18 12. Thus, the aggregate number of class members exceeds the jurisdictional threshold  
19 of 100 people. *See* 28 U.S.C. § 1332(d)(5)(B).<sup>3</sup>

20 **B. Amazon and Plaintiff Are Not Citizens of the Same State.**

21 13. To satisfy CAFA's diversity requirement, a party seeking removal must plead that  
22 one putative class member is a citizen of a different state than one defendant (i.e., so-called

23 <sup>2</sup> Amazon does not concede, and reserves the right to contest, Plaintiff's allegations that this  
24 action may proceed as a class action. In addition, Amazon does not concede and reserves the right  
25 to contest that any of Plaintiff's allegations constitute a cause of action against it under applicable  
26 California law.

26 <sup>3</sup> Amazon reserves the right to supplement or provide the Court with additional briefing or  
27 information necessary to appropriately assess CAFA's jurisdictional requirements or traditional  
28 diversity requirements with respect to the named Plaintiff. *Kanter v. Warner-Lambert Co.*, 265  
F.3d 853, 858 (9th Cir. 2001) (noting that a party may "cure[] its defective allegations...by  
amending its notice of removal.").

1 minimum diversity). 20 U.S.C. § 1332(d)(2); *United Steel, Paper & Forestry, Rubber, Mfg.,*  
2 *Energy, Allied Indus. & Serv. Workers Int’l Union, AFL-CIO, CLC v. Shell Oil Co.*, 602 F.3d  
3 1087, 1090-91 (9th Cir. 2010) (explaining that CAFA provides expanded original diversity  
4 jurisdiction for class actions meeting the minimal diversity requirement set forth in 28 U.S.C. §  
5 1332(d)(2)).

6 14. “An individual is a citizen of the state in which he is domiciled . . .” *Boon v.*  
7 *Allstate Ins. Co.*, 229 F. Supp. 2d 1016, 1019 (C.D. Cal 2002) (citing *Kanter*, 265 F.3d at 857).  
8 For purposes of diversity, citizenship is determined by the individual’s domicile when the lawsuit  
9 is filed. *Lew v. Moss*, 797 F. 2d 747, 750 (9th Cir. 1986). Evidence of continuing residence  
10 creates a presumption of domicile. *Washington v. Havensa LLC*, 654 F.3d 340, 345 (3rd Cir.  
11 2011).

12 15. Plaintiff admits that she “resides in Highland, California.” Compl. ¶ 7. The  
13 Complaint does not allege any alternate state citizenship. *See generally* Compl. Amazon’s  
14 records show that Plaintiff’s last known home address is in California. Bruno Decl. ¶ 4.  
15 Therefore, Plaintiff is a citizen of California for purposes of diversity jurisdiction.

16 16. Moreover, the Complaint pleads claims on behalf of a putative class of individuals  
17 who worked for Amazon in California. Compl. ¶ 2. Thus, at least one putative class member is a  
18 citizen of California.

19 17. Pursuant to 28 U.S.C. § 1332, “a corporation shall be deemed to be a citizen of  
20 every State and foreign state by which it has been incorporated and of the State or foreign state  
21 where it has its principal place of business.” 28 U.S.C. § 1332(c)(1). A corporation’s “principal  
22 place of business” is where its “officers direct, control, and coordinate the corporation’s activities  
23 . . . [I]n practice it should normally be the place where the corporation maintains its headquarters-  
24 provided that the headquarters is the actual center of direction, control, and coordination, i.e., the  
25 ‘nerve center,’ and not simply an office where the corporation holds its board meeting[.]” *See*  
26 *Hertz Corp. v. Friend*, 559 U.S. 77, 92-93 (2010).

27 18. Defendant Amazon.com, Inc. is a corporation organized under the laws of the  
28 State of Delaware. Declaration of Zane Brown (“Brown Decl.”) ¶ 4. Its principal place of

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