UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

INTERNATIONAL LABOR RIGHTS FORUM d/b/a GLOBAL LABOR JUSTICE-INTERNATIONAL LABOR RIGHTS FORUM, 1634 I Street, NW, Suite 1000, Washington, D.C. 20006, Plaintiff, v. BUMBLE BEE FOODS, LLC, 280 10th Avenue, San Diego, CA 92101, Defendant.	Civil Action No. _____

NOTICE OF REMOVAL

Defendant Bumble Bee Foods, LLC ("Bumble Bee") hereby removes this action from the Superior Court of the District of Columbia to the United States District Court for the District of Columbia pursuant to 28 U.S.C. §§ 1332(a), (d), 1367, 1441(a), (b), 1446, and 1453(b),[1] and states as follows:

TIMELINESS OF REMOVAL

1. Plaintiff International Labor Rights Forum d/b/a Global Labor Justice-International Labor Rights Forum ("GLJ-ILRF") filed this action against Bumble Bee on March 21, 2022, in the Superior Court of the District of Columbia as Civil Action No. 2022 CA 001235B. Bumble Bee was served with the complaint and summons on April 4, 2022.

2. This Notice of Removal is timely because it is filed within 30 days of service. *See* 28 U.S.C. § 1446(b).

[1] By filing this Notice of Removal, Bumble Bee does not waive any right, defense, affirmative defense, or objection, including any challenges to personal jurisdiction over Bumble Bee. *See, e.g.*, *Rivera* v. *Bally's Park Place, Inc.*, 798 F. Supp. 2d 611, 615 (E.D. Pa. 2011).

NATURE OF THE ACTION

3. Plaintiff GLJ-ILRF, a citizen of the District of Columbia, brings suit on its own behalf and on behalf of District of Columbia consumers, against an out-of-state defendant, seeking injunctive relief and attorneys' fees that, if granted, would exceed the $75,000 jurisdictional threshold, even if divided among the allegedly injured parties. This Court has subject matter jurisdiction over the instant action because it may exercise diversity jurisdiction, 28 U.S.C. §§ 1332, 1441(b), as well as jurisdiction under the Class Action Fairness Act, 28 U.S.C. § 1332(d).[2]

4. Plaintiff GLJ-ILRF is a nonprofit incorporated and based in the District of Columbia. It brings this suit purportedly seeking to address "unfair and dangerous labor practices in the commercial fishing of the seafood that ends up in Bumble Bee Products." Compl. ¶ 7. Plaintiff claims that Bumble Bee, which is organized in Delaware and has its principal place of business in California, violated the District of Columbia Consumer Protection Procedures Act ("CPPA"), D.C. Code §§ 28-3901 *et seq.*, through "deceptive marketing representations that purport to ensure fair labor practices and worker safety." Compl. ¶ 9.

5. According to the Complaint, Bumble Bee advertises its products with phrases such as "best-in-class culture of safety" and "fair and responsible working conditions" when, in fact, "*Bumble Bee sells tuna products* caught by laborers who are subjected to inhuman conditions that do not meet the standards Bumble Bee set for itself." Compl. ¶ 79 (emphasis added). But the Complaint does not allege any facts showing that Bumble Bee actually sells tuna sourced from any such laborers, or that Bumble Bee even directly sources tuna from any such laborers.

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[2] Bumble Bee reserves the right to further elaborate on these grounds for removal, and provide evidence in support thereof, beyond the jurisdictional allegations in this Notice. *See Dart Cherokee Basin Operating Co., LLC* v. *Owens*, 574 U.S. 81, 87–89 (2014).

6. Plaintiff nonetheless claims that it is misleading for Bumble Bee to call its practices "best-in-class" without disclosing the alleged risks in its parent company's supply chain. *Id.* ¶¶ 6, 19, 31, 41, 43, 63. But Plaintiff fails to disclose the subject matter of Bumble Bee's "best-in-class" superlative. It does not refer broadly to Bumble Bee's supply chain, but to Bumble Bee's promise to "continue to champion [its] best-in-class culture of safety *in Bumble Bee facilities*."[3] This is a far cry from promising best-in-class safety practices aboard the fishing vessels of third-party suppliers. And Plaintiff does not allege any facts indicating that the statement is false or misleading as to Bumble Bee's own facilities.

7. Plaintiff seeks declaratory and injunctive relief, as well as costs and attorneys' fees. Compl. ¶ 17.

GROUNDS FOR REMOVAL

A. This Court Has Diversity Jurisdiction Over the Action.

8. This action is removable under 28 U.S.C. § 1332 and § 1441 because the action is between citizens of different states and the amount in controversy far exceeds $75,000.

9. A defendant may remove "any civil action brought in State court of which the district courts of the United States have original jurisdiction." 28 U.S.C. § 1441(a).

10. Federal district courts have "original," diversity jurisdiction over civil actions for which (1) there is "complete diversity," meaning that no plaintiff is a citizen of the same State as any defendant; and (2) the amount in controversy "exceeds the sum or value of $75,000." 28 U.S.C. § 1332(a); *Lincoln Prop. Co.* v. *Roche*, 546 U.S. 81, 89 (2005). Both criteria are satisfied here.

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[3] The Bumble Bee Seafood Company, *Impact: Sustainability and Social Impact*, https://thebumblebeecompany.com/impact/ (last visited Apr. 17, 2022) (emphasis added) (cited in Compl. ¶¶ 19, 21, 41).

11. "[C]omplete diversity" is present because the sole Plaintiff and the sole Defendant in this action are citizens of different states. 28 U.S.C. § 1332(a)(1); *see also id.* § 1332(e) (providing that the District of Columbia is a "State" for purposes of Section 1332(a)(1)). For purposes of diversity jurisdiction, a corporation—including a not-for-profit corporation—is a citizen of the state in which it is incorporated, and the state in which it has its principal place of business. *Id.* § 1332(c)(1); *see North* v. *Smarsh, Inc.*, 160 F. Supp. 3d 63, 79 (D.D.C. 2015).

12. Plaintiff GLJ-ILRF is a citizen of the District of Columbia because, according to the allegations of the Complaint, Plaintiff is "registered as a nonprofit in the District of Columbia." Compl. ¶ 70.

13. Defendant Bumble Bee is a privately-held limited liability company that is organized under the laws of Delaware and has its primary place of business in San Diego, California. Compl. ¶ 64.

14. The "in-state defendant rule" does not bar removal of this case because Bumble Bee is not a citizen of the District of Columbia and therefore is not "a citizen of the State in which such action is brought." 28 U.S.C. § 1441(b)(2). The parties are therefore "completely diverse."

15. The amount in controversy also far "exceeds the sum or value of $75,000." 28 U.S.C. § 1332(a)(1). In measuring the amount in controversy for purposes of diversity jurisdiction, a court must assume that the allegations of the complaint are true and assume that a jury will return a verdict for the plaintiff on all claims made in the complaint, no matter how baseless they might be. *See Lovelle* v. *State Farm Mut. Auto Ins. Co.*, 235 F. Supp. 3d 217, 223–24 (D.D.C. 2017). A defendant's notice of removal "need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold." *Beyond Pesticides* v. *Dr. Pepper Snapple Grp., Inc.*, 322 F. Supp. 3d 119, 121 (D.D.C. 2018) (quoting *Dart Cherokee*, 574 U.S. at 89).

16. Where, as here, a plaintiff seeks injunctive relief, the amount in controversy is "measured by the value of the object of the litigation." *Hunt* v. *Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 347 (1977). This value can be calculated from "either viewpoint," meaning the "value of the right that plaintiff seeks to enforce or to protect" or "the cost to the defendant to remedy the alleged denial." *Smith* v. *Washington*, 593 F.2d 1097, 1099 (D.C. Cir. 1978). Thus, "[t]he value of injunctive relief for determining the amount in controversy can be calculated as the cost to the defendant." *GEO Specialty Chems., Inc.* v. *Husisian*, 951 F. Supp. 2d 32, 39 (D.D.C. 2013) (quoting *Wexler* v. *United Air Lines, Inc.*, 496 F. Supp. 2d 150, 153 (D.D.C. 2007)).

17. The question of how to apportion the cost to the defendant in cases seeking injunctive relief on behalf of a class of consumers is an open and recurring question within the D.C. Circuit. District courts have employed the "non-aggregation" principle in CPPA suits when calculating the cost to the defendant of the injunctive relief. *See Earth Island Inst.* v. *BlueTriton Brands*, --- F. Supp. 3d ----, 2022 WL 252031, at *3 (D.D.C. Jan. 27, 2022) (citing cases). The non-aggregation principle provides that "separate and distinct claims of two or more plaintiffs cannot be aggregated in order to satisfy the jurisdictional amount requirement." *Snyder* v. *Harris*, 394 U.S. 332, 335 (1969). These courts have found that the cost of compliance with the injunctive relief should be divided by the number of affected consumers who could bring suit in their own right. *See, e.g.*, *Organic Consumers Ass'n* v. *Handsome Brook Farm Grp. 2, LLC*, 222 F. Supp. 3d 74, 78 (D.D.C 2016); *Witte* v. *General Nutrition Corp.*, 104 F. Supp. 3d 1, 6 (D.D.C. 2015).[4]

[4] To meet its statutory standing requirements for a suit brought under D.C. Code § 28-3905(k)(1)(D), Plaintiff must demonstrate that the consumers it purports to represent "could bring suit in their own right." *Animal Legal Defense Fund* v. *Hormel Foods Corp.*, 258 A.3d 174, 183 (D.C. 2021). In other words, the only consumers whose interests Plaintiff could represent in this case necessarily would be "consumers who have suffered a cognizable injury under the CPPA sufficient to give each of them Article III standing." *Organic Consumers Ass'n*

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