

3. Plaintiff is a resident of New Jersey residing at 509 Main Street, Apt B3, Paterson, NJ 07501. Id.

II. BACKGROUND AND PROCEDURAL HISTORY

4. On or about October 30, 2023, Plaintiff initiated this action by filing a Complaint in the Superior Court of New Jersey, Law Division of Passaic County, Docket No. PAS-L-002963-23. Id.

5. On or about November 2, 2023, Walmart was served with a copy of the Complaint. See Ex. B – Service of Complaint.

III. LEGAL ARGUMENT

6. Pursuant to 28 U.S.C. § 1332, a matter may be removed to federal court based upon the complete diversity of citizenship of the parties.

7. The United States District Court for the District of New Jersey has original jurisdiction over this action based on diversity of citizenship. Pursuant to 28 U.S.C. § 1332(a), the United States District Courts have original jurisdiction over all civil actions when the matter in controversy exceeds \$75,000, exclusive of interests and costs, and is between citizens of different states.

8. Pursuant to 28 U.S.C. § 1446(b)(1), defendants have thirty (30) days, “after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based,” to file a notice of removal.

9. This Notice of Removal is being filed within thirty (30) days of when Walmart first received confirmation, through service of Plaintiff’s Complaint on November 2, 2023, from which Walmart ascertained that this matter is removable to Federal Court.

10. For the reasons set forth more fully below, this Court has original jurisdiction under 28 U.S.C. § 1332 because the properly named parties are citizens of different states, and the matter in controversy exceeds \$75,000.

A. THE PARTIES ARE COMPLETELY DIVERSE

11. Pursuant to 28 U.S.C. § 1332, a matter may be removed to federal court based upon the complete diversity of citizenship of the parties.

12. Complete diversity of citizenship between the parties exists when “every plaintiff [is] of diverse state citizenship from every defendant.” In re Brisco, 448 F.3d 201, 215 (3d Cir. 2016).

13. A corporation is considered to be a citizen of its state of incorporation and the state where it has its principal place of business. 28 U.S.C. § 1332(c).

14. Under the “nerve center” test adopted by the United States Supreme Court, a corporation’s principal place of business is the headquarters of the corporation, i.e., that “place where a corporation’s officers direct, control and coordinate the corporation’s activities.” Hertz Corp. v. Friend, 559 U.S. 77, 92-93 (2010).

15. “The party asserting diversity jurisdiction bears the burden of proof.” McCann v. George W. Newman Irrevocable Trust, 458 F.3d 281, 286 (3rd Cir. 2006).

16. “A party generally meets this burden by proving diversity of citizenship by a preponderance of evidence.” Id. at 286.

1. Citizenship of Plaintiff

17. Plaintiff Jacqueline Villanueva resides in New Jersey. See Ex. A.

18. As such, it has been established by a preponderance of the evidence that plaintiff is a citizen of New Jersey.

2. Citizenship of Defendant Walmart Inc.

19. Defendant Walmart Inc., is a citizen of Delaware, its state of incorporation, and a citizen of Arkansas, the location of its principal place of business. Thus, Walmart Inc., is a citizen of Delaware and Arkansas and the requirements of diversity jurisdiction are satisfied.

3. Citizenship of Defendant Wal-Mart Stores Inc.

20. Defendant Wal-Mart Stores Inc, is no longer an active entity and has been subsumed by Walmart Inc. Walmart Inc., is a citizen of Delaware, its state of incorporation, and a citizen of Arkansas, the location of its principal place of business. Thus, Walmart Inc., is a citizen of Delaware and Arkansas and the requirements of diversity jurisdiction are satisfied.

21. Thus, none of the Walmart defendants are citizens of the State of New Jersey.

22. Accordingly, complete diversity exists between the parties, and this requirement for removal based on diversity of citizenship is satisfied.

B. THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000

23. Under 28 U.S.C. § 1332(a), federal jurisdiction based on diversity of citizenship requires that the amount in controversy exceed \$75,000.

24. The amount in controversy is measured by the pecuniary value of the rights being litigated. Hunt v. Washington Apple Advertising Commission, 423 U.S. 333, 347 (1947).

25. Plaintiff's Complaint claims damages for permanent, physical, and mental injuries, pain and anguish, past and future wage loss, past and future medical treatment, and costs, as a result of the alleged incident. See Exh. A.

26. On August 9, 2023, plaintiff issued a demand requesting \$100,000 as settlement for the alleged damages asserted in this claim. See Exh. C – Plaintiff's Demand Letter.

27. To Walmart's current understanding, plaintiff has undergone at least three (3) pain injections to her lumbar spine and has been recommended as a candidate for additional injections.

Id.

28. Moreover, plaintiff has approximately \$18,383 in outstanding medical expenses with the potential for additional expenses which have not yet been disclosed. Id.

29. Based on the foregoing, Walmart submits that the matter in controversy is in excess of \$75,000, exclusive of interest and costs, and this requirement for removal is satisfied.

IV. CONCLUSION

Therefore, with both the existence of diversity of citizenship between the parties and the amount in controversy threshold having been satisfied, removal is proper under 28 U.S.C. §§ 1332 and 1441.

WHEREFORE, defendants Walmart Inc. and Wal-Mart Stores Inc., respectfully request that this State Action be removed to the United States District Court for the District of New Jersey.

Respectfully submitted,

LANDMAN CORSI BALLAINE & FORD P.C.
Attorneys for Defendants Walmart, Inc. and Wal-Mart Stores, Inc.

By: /s/ Abbey J. Luffey
Abbey J. Luffey, Esq.

Date: November 29, 2023

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