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6 **ESSENTIAL CONSULTANTS, LLC**

7  
8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10  
11 STEPHANIE CLIFFORD a.k.a.  
12 STORMY DANIELS a.k.a. PEGGY  
13 PETERSON, an individual,

14 Plaintiff,

15 v.

16 DONALD J. TRUMP a.k.a. DAVID  
17 DENNISON, an individual,  
18 ESSENTIAL CONSULTANTS, LLC, a  
19 Delaware Limited Liability Company,  
and DOES 1 through 10, inclusive,

20 Defendants.  
21  
22

Case No.

**NOTICE OF REMOVAL OF  
ACTION UNDER 28 U.S.C. § 1441(b)  
DIVERSITY BY DEFENDANT  
ESSENTIAL CONSULTANTS, LLC**

[Filed concurrently with Civil Cover  
Sheet, Notice of Interested Parties and  
Corporate Disclosure Statement]

Complaint Filed: March 6, 2018

1 **TO THE CLERK OF THE ABOVE-ENTITLED COURT:**

2 **PLEASE TAKE NOTICE** that, pursuant to 28 U.S.C. §§ 1332, 1441, and  
3 1446, Defendant Essential Consultants, LLC, with the consent of Defendant Donald J.  
4 Trump (collectively, “Defendants”), hereby removes this civil action from the  
5 Superior Court of California for the County of Los Angeles, where it is currently  
6 pending as Case No. BC 696568, to the United States District Court for the Central  
7 District of California, Western Division.

8 This Court has original jurisdiction over this action under 28 U.S.C. § 1332(a)  
9 on the grounds that complete diversity exists between all parties and the amount in  
10 controversy exceeds the sum of \$75,000, exclusive of interest and costs. Plaintiff  
11 Stephanie Clifford a.k.a. Stormy Daniels (“Plaintiff” or “Clifford”) is a resident,  
12 citizen and domiciliary of the State of Texas, Defendant Essential Consultants, LLC  
13 (“EC”) is a Delaware limited liability company with its principle place of business in  
14 the State of New York, and Defendant Donald J. Trump, is currently a resident of the  
15 District of Columbia, but is a permanent resident, citizen and domiciliary of the State  
16 of New York.

17 **BACKGROUND**

18 On March 6, 2018, an action was commenced in the Superior Court of the State  
19 of California in and for the County of Los Angeles, entitled *Stephanie Clifford a.k.a.*  
20 *Stormy Daniels a.k.a. Peggy Peterson, an individual, v. Donald J. Trump a.k.a. David*  
21 *Dennison, an individual, Essential Consultants, LLC, a Delaware Limited Liability*  
22 *Company, and Does 1 through 10, inclusive*, as Case Number BC 696568. Pursuant  
23 to 28 U.S.C. § 1446(a), a copy of the Summons and Complaint is attached hereto as  
24 **Exhibit 1.**

25 Neither of the Defendants has been served with a copy of the Summons or  
26 Complaint.

27 Plaintiff asserts in the Complaint one cause of action: for Declaratory Relief,  
28 claiming that the signed written agreement entitled “Confidential Settlement

1 Agreement and Mutual Release; Assignment of Copyright and Non-Disparagement  
2 Agreement” (the “Settlement Agreement”) dated October 28, 2016, by and between  
3 EC and Clifford, and for which Clifford was paid \$130,000.00 pursuant to its terms,  
4 supposedly is “void, invalid, or otherwise unenforceable.”

5 The Settlement Agreement contains a broad arbitration provision which  
6 provides that “any and all claims or controversies which may arise between” Clifford  
7 and “DD”—whom Plaintiff’s Complaint alleges is Defendant Trump—“shall be  
8 resolved by binding confidential Arbitration to the greatest extent permitted by law”  
9 (herein, the “Arbitration Agreement”).

10 On February 22, 2018, pursuant to the Arbitration Agreement, EC commenced  
11 an arbitration proceeding regarding the controversy at issue in this lawsuit, before  
12 ADR Services, Inc. in Los Angeles, Case No. 18-1118-JAC (the “Pending Arbitration  
13 Proceeding”). In the Pending Arbitration Proceeding, EC seeks compensatory  
14 damages, liquidated damages, and injunctive relief. The Settlement Agreement  
15 provides for liquidated damages of one million dollars (\$1,000,000) per instance of  
16 breach by Clifford of the confidentiality provisions of the Settlement Agreement.  
17 Clifford has breached the confidentiality provisions of the Settlement Agreement  
18 numerous times.

19 Plaintiff Clifford and her counsel were aware of the Pending Arbitration  
20 Proceeding at the time they filed the instant lawsuit on March 6, 2018 in the  
21 California Superior Court, County of Los Angeles. *See* Complaint, ¶ 29.

22 Plaintiff refuses to comply with the Arbitration Agreement. Therefore, EC  
23 intends to file a Petition to Compel Arbitration with this Court at the earliest possible  
24 time permitted by the Federal Rules of Civil Procedure and Local Rules of this Court,  
25 to compel this action to the Pending Arbitration Proceeding.

26 EC is informed that Defendant Trump will be filing a Joinder in Removal,  
27 which will consent to the removal of this action to this Court, and also consent to the  
28 arbitration of the claims in this action, pursuant to the Arbitration Agreement.

1 Nothing contained in this Notice of Removal or accompanying papers is  
2 intended to waive or relinquish any of the Defendants’ rights to seek to compel this  
3 action to arbitration, all rights of which are expressly reserved.

4 **GROUND FOR REMOVAL**

5 As set forth more fully below, this Court has subject matter jurisdiction under  
6 28 U.S.C. § 1332, which confers original jurisdiction of “all civil actions where the  
7 matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and  
8 costs, and is between ... citizens of different States and in which citizens or subjects  
9 of a foreign state are additional parties[.]”

10 **I. The Amount-In-Controversy Requirement is Satisfied.**

11 “In actions seeking declaratory or injunctive relief, it is well established that  
12 the amount in controversy is measured by the value of the object of the litigation.”  
13 *Cohn v. Petsmart, Inc.*, 281 F.3d 837, 840 (9th Cir. 2002) (quoting *Hunt v. Wash.*  
14 *State Apple Advert. Comm’n*, 432 U.S. 333, 347 (1977)). The Ninth Circuit employs  
15 the “either viewpoint” test to determine the value of the object of the litigation.  
16 *Corral v. Select Portfolio Servicing, Inc.*, 878 F.3d 770, 775 (9th Cir. 2017). “Under  
17 the ‘either viewpoint’ rule, the test for determining the amount in controversy is the  
18 pecuniary result to either party which the judgment would directly produce.” *In re*  
19 *Ford Motor Co./Citibank*, 264 F.3d 952, 959 (9th Cir. 2001).

20 Here, the Complaint states that the sum of \$130,000—the amount that was paid  
21 by EC to Plaintiff Clifford—is at issue. Exhibit 1, Complaint, pp. 4-5, ¶¶ 23, 25, 32.  
22 Plaintiff is seeking to invalidate the Settlement Agreement by way of this lawsuit, but  
23 has not returned to EC its payment to her of \$130,000. Thus, if Plaintiff prevails in  
24 her action for Declaratory Relief, the pecuniary result the judgment would directly  
25 produce is the return of \$130,000 received by Clifford under the Settlement  
26 Agreement.

27 Further, Plaintiff’s counsel sent a written settlement proposal to EC dated  
28 March 12, 2018, wherein Plaintiff offered to pay \$130,000 in exchange for, among

1 other things, an agreement that the Settlement Agreement is “null and void.”  
2 (Plaintiff’s counsel spoke about this settlement proposal in news interviews, thus  
3 waiving any confidentiality. A copy of the letter can be furnished to the Court upon  
4 request.) This settlement letter constitutes evidence that Plaintiff values the object of  
5 the litigation at \$130,000. *See e.g. Cohn v. Petsmart, Inc., supra*, 281 F.3d at 840 (“A  
6 settlement letter is relevant evidence of the amount in controversy if it appears to  
7 reflect a reasonable estimate of the plaintiff’s claim.”)

8       Moreover, EC is aware of at least twenty (20) violations by Clifford of the  
9 confidentiality provisions of the Settlement Agreement. Clifford expressly agreed in  
10 the Settlement Agreement to liquidated damages in the amount of “One-Million  
11 Dollars (\$1,000,000)” for “each breach” of the confidentiality provisions of the  
12 Settlement Agreement. (Emphasis in original.) Therefore, EC and/or Defendant  
13 Trump have the right to seek liquidated damages against Clifford for her numerous  
14 breaches in an amount to be proven with certainty at the Pending Arbitration  
15 Proceeding, but which is approximated to already be in excess of twenty million  
16 dollars (\$20,000,000). Clifford was aware that EC is seeking liquidated damages  
17 against her in the Pending Arbitration Proceeding prior to the filing of the Complaint.  
18 Exhibit 1, Complaint, ¶ 29.

19       Accordingly, the amount in controversy in this action well exceeds \$75,000,  
20 exclusive of interest and costs.

21       Because the amount in controversy exceeds \$75,000, removal on the basis of  
22 diversity should be allowed pursuant to 28 U.S.C. § 1441(b).

23 **II. Complete Diversity of Citizenship Exists Between Plaintiffs**  
24 **and All Defendants.**

25       Plaintiff Clifford alleges at Paragraph 1 of the Complaint that she “is a resident  
26 of the State of Texas.” EC alleges herein that she is also a citizen and domiciliary of  
27 the State of Texas. Nothing in the Complaint or other pleadings suggests otherwise.  
28 EC, following a diligent search of public records, is not aware of any residency,

1 citizenship or domiciliary by Plaintiff Clifford in either New York, Delaware or the  
2 District of Columbia.

3 Plaintiff alleges at Paragraph 2 of the Complaint that Defendant Trump “is a  
4 resident of the District of Columbia (among other places).” Defendant Trump’s  
5 Joinder in Removal to be filed herein, confirms that he is currently a resident of the  
6 District of Columbia, but is a permanent resident, citizen and domiciliary of the State  
7 of New York.

8 Plaintiff alleges at Paragraph 3 of the Complaint that EC is a “Delaware limited  
9 liability company.” EC admits that it was incorporated in the State of Delaware.  
10 Moreover, the citizenship of an LLC is the citizenship of its members. *Johnson v.*  
11 *Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006) (“[L]ike a  
12 partnership, an LLC is a citizen of every state of which its owners/members are  
13 citizens.”); *Marseilles Hydro Power, LLC v. Marseilles Land & Water Co.*, 299 F.3d  
14 643, 652 (7th Cir. 2002) (“the relevant citizenship [of an LLC] for diversity purposes  
15 is that of the members, not of the company”); *Handelsman v. Bedford Vill. Assocs.,*  
16 *Ltd. P’ship*, 213 F.3d 48, 51-52 (2d Cir. 2000) (“a limited liability company has the  
17 citizenship of its membership”); *Cosgrove v. Bartolotta*, 150 F.3d 729, 731 (7th Cir.  
18 1998); *TPS Utilicom Servs., Inc. v. AT&T Corp.*, 223 F. Supp. 2d 1089, 1101 (C.D.  
19 Cal. 2002) (“A limited liability company ... is treated like a partnership for the  
20 purpose of establishing citizenship under diversity jurisdiction.”).

21 EC is a single member LLC. Its sole member is Michael D. Cohen, who is a  
22 resident, citizen and domiciliary of the State of New York. Accordingly, EC is a  
23 resident, citizen and domiciliary of the State of New York.

24 As stated above, Mr. Trump will file a joinder in this removal. Title 28, U.S.C.  
25 § 1446(b)(2)(A) provides that all served defendants who properly may be joined in  
26 the removal notice must join. Here, none of the defendants have been served with the  
27 summons and complaint, thus, no joinders are required. Nevertheless, the only named  
28 defendant besides EC (namely, Defendant Trump) will join in this removal.

1 The Complaint also names Doe Defendants “1 through 10”. Exhibit 1,  
2 Complaint, p. 1 ¶ 5. For purposes of removal, however, “the citizenship of defendants  
3 sued under fictitious names shall be disregarded.” 28 U.S.C. § 1441(b)(1).  
4 Therefore, the inclusion of “Doe” defendants in the state court Complaint has no  
5 effect on removability. In determining whether diversity of citizenship exists, only  
6 the named defendants are considered. *See Newcombe v. Adolf Coors Co.*, 157 F.3d  
7 686, 690-691 (9th Cir. 1998); *see also Olive v. Gen. Nutrition Ctrs., Inc.*, No. 2:12-cv-  
8 04297-ODW, 2012 WL 2006389, at \*1 (C.D. Cal. June 5, 2012); *Marsikyan v.*  
9 *Porsche Cars N. Am., Inc.*, No. CV 11-09411 SJO, 2012 WL 280585, at \*2 (C.D. Cal.  
10 Jan. 30, 2012).

11 **III. The Other Prerequisites for Removal Are Satisfied.**

12 This Notice of Removal is timely filed. The relevant statute provides that  
13 “[e]ach defendant shall have 30 days after receipt ... of the initial pleading ... to file  
14 the notice of removal.” 28 U.S.C. § 1446(b)(2)(B). Plaintiff filed the Complaint with  
15 the state court on March 6, 2018. Neither of the Defendants has been served with a  
16 copy of the Summons or Complaint, as of the date of the filing of this Notice of  
17 Removal.

18 This action is properly removed to the United States District Court for the  
19 Central District of California, Western Division, which is “the district and division  
20 embracing the place where [the] action is pending.” 28 U.S.C. § 1441(a); *see also* 28  
21 U.S.C. § 84(c)(2) (listing the counties within the Western Division of the Central  
22 District of California).

23 Title 28 U.S.C. § 1446(a), requires a copy of all process, pleadings, and orders  
24 served upon the removing defendant in the state court action (Case No. BC 696568)  
25 to be included with this Notice of Removal. EC was not served with any of the  
26 papers. However, EC has obtained from the California Superior Court the following  
27 papers, and has attached them hereto as **Exhibit 1**, Summons and Complaint, and  
28

1 **Exhibit 2**, Civil Case Cover Sheet, Civil Case Cover Sheet Addendum, Peremptory  
2 Challenge, Notice of Case Management Conference and Order to Show Cause.

3 Pursuant to 28 U.S.C. § 1446(d), a Notice to Adverse Party of Removal to  
4 Federal Court, attached hereto as **Exhibit 3**, together with this Notice of Removal,  
5 will be served upon counsel for Plaintiff and Defendant Trump, and will be filed with  
6 the clerk of the Superior Court for the County of Los Angeles.

7 By filing this Notice of Removal, EC does not waive its right to seek to compel  
8 arbitration, or to object to jurisdiction over the person, or venue, and specifically  
9 reserves the right to assert any defenses and/or objections to which it may be qualified  
10 to assert.

11 If any question arises as to the propriety of the removal of this action, EC  
12 respectfully requests the opportunity to submit briefing and oral argument and to  
13 conduct discovery in support of its position that subject matter jurisdiction exists.  
14

15 Dated: March 16, 2018

BLAKELY LAW GROUP

17 By: /s/ Brent H. Blakely

BRENT H. BLAKELY

*Attorneys for Defendant and Petitioner*  
**EXECUTIVE CONSULTANTS, LLC**

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