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C.R. ENGLAND, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

VICTOR RAMIREZ, an individual;

Plaintiff,

vs.

C.R. ENGLAND, INC., A UTAH
CORPORATION; and DOES 1 through
100, inclusive, and each of them,

Defendants.

Case No: 5:24-CV-0820

**DEFENDANT C.R. ENGLAND,
INC.'S NOTICE OF REMOVAL OF
CIVIL ACTION**

Action Filed: January 24, 2024
Complaint Served: March 20, 2024
Removal Date: April 18, 2024
Trial Date: None Set

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332(a), 1332(c), 1441, and 1446, Defendant C.R. England, Inc. (“Defendant”), which is incorporated in Utah and maintains its principal place of business in Salt Lake City, Utah, hereby timely and properly removes the lawsuit captioned *Victor Ramirez v. C.R. England, Inc.*, Case No. CIVSB2403740, from the Superior Court of California, County of San Bernardino to the United States District Court for the Central District of California, for all further proceedings while reserving any and all defenses thereto.

This Court has original subject matter jurisdiction over the lawsuit brought by Plaintiff Victor Ramirez (“Plaintiff”) against Defendant due to 28 U.S.C. § 1332(a) (*i.e.*, traditional diversity jurisdiction) because diversity of citizenship exists between Plaintiff and Defendant. Indeed, Plaintiff is a California citizen while Defendant is a citizen of Utah, and the amount in controversy pertaining to Plaintiff’s claims clearly exceeds \$75,000.

As grounds for removal, Defendant respectfully states as follows:

I. STATEMENT OF THE CASE

1. On January 24, 2024, Plaintiff filed a lawsuit against Defendant in the Superior Court of the State of California, County of San Bernardino, captioned “VICTOR RAMIREZ, an individual vs. C.R. ENGLAND, INC., A UTAH CORPORATION; and DOES 1 through 100, inclusive, and each of them” (“Complaint”), which was assigned Case Number CIVSB2403740 (the “State Court Action”). See Summons and Complaint, attached hereto as **Exhibit 1**; see also Declaration of Bruce J. Boehm in Support of Notice of Removal (“Boehm Decl.”),

¶ 2.¹

¹ While the Complaint designates Riverside County Superior Court in the caption, it was actually filed in San Bernardino County Superior Court, as reflected in the filing stamp. See **Exhibit 1**.

2. On March 20, 2024, the Summons and Complaint were personally served on Defendant. *See* Service of Process Transmittal for Complaint, attached hereto as **Exhibit 2**; *see also* Boehm Decl, ¶ 3.

3. In his Complaint, Plaintiff alleges the following causes of action against Defendant: (1) Whistleblower Violations (CA Lab. Code § 1102.5); (2) Retaliation in Violation of Public Policy; (3) Wrongful Termination in Violation of Public Policy; (4) Disability Discrimination; (5) Failure to Accommodate; (6) Failure to Prevent Discrimination, Harassment, and Retaliation; (7) Failure to Engage in the Interactive Process; (8) Failure to Pay Wages & Overtime; (9) Failure to Provide Meal & Rest Periods; (10) Failure to Provide Accurate, Itemized Wage Statements; (11) Time and Wait Penalties/Failure to Pay Wages upon Termination; (12) Violation of Business & Professions Code § 17200 (Unfair Business Practice); and (13) Intentional Infliction of Emotional Distress.²

4. Based on the claims alleged in the Complaint, Plaintiff seeks an assortment of damages. *See generally*, Complaint and Prayer for Relief (“Prayer”), at ¶¶ 1-9.

5. In addition to **Exhibits 1 and 2** referenced above, the docket in the State Court Action contains the following additional process, pleadings, and orders: Civil Case Cover Sheet (attached hereto as **Exhibit 3**), Certificate of Assignment

² Plaintiff’s Complaint is filled with errors. In addition to designating the wrong court in the caption, the Complaint’s claims are mis-numbered, out of order, and duplicative. For example, Plaintiff asserts his sixth cause of action after the third cause of action and his fourth cause of action after the eighth cause of action. Moreover, the Complaint contains two separate “fourth” causes of action, three separate “fifth” causes of action, and two separate “sixth” causes of action. It also contains references to medical malpractice though the lawsuit is clearly an employment action brought by a truck driver against his former employer. *See* Complaint generally.

(attached hereto as **Exhibit 4**), and Notice of Trial Setting Conference and Notice of Case Assignment (attached as **Exhibit 5**). See **Exhibit 6** (docket sheet).

6. To Defendant's knowledge, the documents attached as **Exhibits 1 through 5** hereto constitute all process, pleadings, and orders filed in the State Court Action. See 28 U.S.C. § 1446(a); see also Exhibit 6.

II. JURISDICTIONAL BASIS FOR REMOVAL³

7. This Court has original subject matter jurisdiction over Plaintiff's lawsuit under 28 U.S.C. § 1332(a) because complete diversity of citizenship exists between Plaintiff and Defendant, *i.e.*, Plaintiff is a California citizen while Defendant is a citizen of Utah, and the amount in controversy for Plaintiff's claims far exceeds \$75,000 as discussed in greater detail below.

8. Further, venue is proper in this judicial district pursuant to 28 U.S.C. §§ 84(c)(1), 1441(a), and 1446(a).

9. Importantly, the United States Supreme Court has clarified that courts must apply the same liberal rules to removal allegations as to other matters of pleading:

[A] defendant seeking to remove a case to a federal court must file in the federal forum a notice of removal 'containing a short and plain statement of the grounds for removal.' By design, 28 U.S.C. § 1446(a) tracks the general pleading requirement stated in Rule 8(a) of the

³ Defendant disputes the allegations in the Complaint, contends that it has not engaged in any unlawful conduct of any kind, and denies that Plaintiff is entitled to recover anything by virtue of this action. The statements made in this Notice of Removal regarding Plaintiff's purported damages are thus proffered for the sole purpose of establishing that diversity jurisdiction exists under 28 U.S.C. § 1332(a), including that the Parties are citizens of different states and the amount in controversy exceeds \$75,000.00, and nothing more. Defendant does not waive, and hereby expressly preserves, any and all substantive and procedural defenses that may exist regarding any of Plaintiff's claims, including, but not limited to, with respect to disputing Plaintiff's purported damages, attorney's fees, etc.

1 Federal Rules of Civil Procedure. The legislative history
 2 of 28 U.S.C. § 1446(a) is corroborative. Congress, by
 3 borrowing the familiar ‘short and plain statement’
 4 standard from Rule 8(a), intended to ‘simplify the
 5 ‘pleading’ requirements for removal’ and to clarify that
 6 courts should ‘apply the same liberal rules [to removal
 7 allegations] that are applied to other matters of pleading.’

8 *Dart Cherokee Basin Op. Co., LLC v. Owens*, 574 U.S. 81, 87 (2014) (internal
 9 citations omitted).

10 **A. Complete Diversity of Citizenship Exists**

11 10. *Plaintiff is a citizen of California.* A natural person’s state citizenship
 12 is determined by his or her state of domicile. *Kanter v. Warner-Lambert Co.*, 265
 13 F.3d 853, 857 (9th Cir. 2001). “A person’s domicile is her permanent home, where
 14 she resides with the intention to remain or to which she intends to return.” *Id.* at
 15 857. A defendant’s allegation of citizenship in a notice of removal based on
 16 diversity jurisdiction may be based solely on information and belief. *Ehrman v. Cox*
 17 *Comm., Inc.*, 932 F.3d 1223 (9th Cir. 2019) (citing *Carolina Cas. Ins. Co. v. Team*
 18 *Equip., Inc.*, 741 F.3d 1082, 1087 (9th Cir. 2014). Here, Plaintiff expressly alleges
 19 he “is an individual residing in Riverside, County of Riverside, California.”
 20 Complaint ¶ 1. Further, Plaintiff has maintained a California driver’s license since
 21 at least December of 2021 and resided in Southern California through the filing of
 22 this lawsuit. Declaration of Jessica Hale in Support of Notice of Removal (“Hale
 23 Decl.”), ¶ 4. Accordingly, Plaintiff is domiciled in California, and thus is a citizen
 24 of California.

25 11. *Defendant is a citizen of Utah.* Under 28 U.S.C. § 1332(c)(1), “a
 26 corporation shall be deemed to be a citizen of any state by which it has been
 27 incorporated and of the state where it has its principal place of business.” *See, e.g.,*
 28 *Hertz Corp. v. Friend*, 559 U.S. 77, 92-93 (2010) (“We conclude that ‘principal
 place of business’ is best read as referring to the place where a corporation’s officers
 direct, control, and coordinate the corporation’s activities. It is the place that Courts

1 of Appeals have called the corporation’s ‘nerve center.’ And in practice it should
2 normally be the place where the corporation maintains its headquarters—provided
3 that the headquarters is the actual center of direction, control, and coordination”).

4 12. Here, Defendant is, and at the time of filing of this action was, a
5 corporation organized under the laws of Utah, with its officers and principal place
6 of business located at 4701 W. 2100 S, Salt Lake City, Utah 84120. Hale Decl., ¶ 2
7 and Ex. 1 thereto. Defendant’s directors, officers and senior management team are
8 located at its corporate headquarters in Salt Lake City Utah. *Id.* at ¶ 3. Defendant’s
9 directors, officers, and senior management team direct, control, and coordinate
10 Defendant’s core executive and administrative functions from its headquarters in
11 Salt Lake City, including, but not limited to, developing and implementing
12 company-wide policies and procedures, human resources, legal affairs, marketing,
13 benefits, IT, finance, and general operations. *Id.* at ¶ 3.⁴ Thus, Defendant is
14 indisputably a citizen of Utah.

15 13. *The citizenship of the alleged “Doe” defendants is irrelevant under 28*
16 *U.S.C. § 1332(a).* For the purposes of removal based on diversity of citizenship, the
17 citizenship of defendants sued under fictitious names is disregarded. 28 U.S.C. §
18 1441(b)(1) (“In determining whether a civil action is removable on the basis of the
19 jurisdiction under [] [28 U.S.C. §] 1332(a), the citizenship of defendants sued under
20 fictitious names shall be disregarded”); *see, e.g., Kruso v. Int’l Tel. & Telegraph*
21 *Corp.*, 872 F. 2d 1416, 1424 (9th Cir. 1989) (holding that the naming of Doe
22 defendants cannot defeat diversity jurisdiction). Thus, the citizenship of any alleged
23 Doe defendants is immaterial for purposes of determining whether complete
24 diversity exists under 28 U.S.C. § 1332(a).

25 14. Because Plaintiff is a citizen of California and Defendant is a citizen
26

27
28 ⁴ Moreover, Plaintiff specifically alleges that C.R. England is a Utah corporation in
the caption of the Complaint. See Complaint, pg. 1.

1 of Utah, complete diversity exists as required under 28 U.S.C. § 1332(a).

2 **B. The Amount in Controversy Far Exceeds \$75,000**

3 15. Pursuant to 28 U.S.C. § 1332(a), the amount in controversy must
4 exceed \$75,000, exclusive of interest and costs, in order for the Court to have
5 diversity jurisdiction over Plaintiff's lawsuit. Here, the amount in controversy
6 requirement is clearly satisfied given the multitude of claims alleged and damages
7 sought by Plaintiff.

8 16. As explained above, the United States Supreme Court clarified in 2014
9 that a notice of removal need only include a plausible allegation that the amount in
10 controversy exceeds the jurisdictional threshold and need not include evidentiary
11 submissions. *See Dart Cherokee*, 574 U.S. at 87.

12 17. In determining whether the jurisdictional minimum has been met here,
13 the Court must consider all damages and other relief sought by Plaintiff in the
14 Complaint, including, but not limited to, compensatory damages, emotional distress
15 damages, punitive damages, and attorneys' fees. *See Gonzales v. CarMax Auto*
16 *Superstores, LLC*, 840 F.3d 644, 648-49 (9th Cir. 2016); *see also Simmons v. PCR*
17 *Tech*, 209 F.Supp.2d 1029, 1031 (N.D. Cal. 2002).

18 18. Here, Defendant denies that it is liable to Plaintiff in any way.
19 Nevertheless, Defendant has calculated the amount in controversy for purposes of
20 this Notice of Removal by taking Plaintiff's claims as alleged by him at face value.
21 In a nutshell, Plaintiff's causes of action concern alleged whistleblower violations,
22 retaliation in violation of public policy, wrongful termination in violation of public
23 policy, disability discrimination, failure to accommodate, failure to prevent
24 discrimination, harassment, and retaliation; failure to engage in the interactive
25 process; failure to pay wages and overtime; failure to provide meal and rest periods,
26 failure to provide accurate, itemized wage statements; failure to pay wages upon
27 termination, violation of California Business and Professions Code § 17200, and
28 intentional infliction of emotional distress in which Plaintiff seeks to recover,

among other things: (1) compensatory damages, including loss of earnings and future earning capacity (2) emotional distress damages for “severe and/or permanent emotional and/or mental distress and anguish, humiliation, embarrassment, fright, shock, pain, discomfort and/or anxiety,” (3) punitive damages; (4) attorneys’ fees. See Complaint ¶¶ 30-31, 40, 43-44, 46, 48, 60-61, 63-64, 77-78, 84-85, 124, 126, 128, 137, 142-143 and pp. 25-26 (Prayer).

19. The totality of relief sought by Plaintiff in connection with his claims unquestionably establishes that the amount in controversy is satisfied in this case as outlined below.

1. Plaintiff’s Claims for Past and Future Wages Alone Amount to More Than \$106,000.00 in Alleged Damages

20. Among other things, Plaintiff seeks to recover loss of earnings and future earning capacity. See, e.g., Complaint ¶¶ 31, 40, 46.

21. The Ninth Circuit clarified in 2018 that the amount in controversy is the “amount at stake in the underlying litigation.” *Chavez v. JPMorgan Chase & Co.*, 888 F.3d 413, 417 (9th Cir. 2018). According to the Ninth Circuit, this means, among other things, that:

If a plaintiff claims at the time of removal that her termination caused her to lose future wages, and if the law entitles her to recoup those future wages if she prevails, then there is no question that future wages are ‘at stake’ in the litigation, whatever the likelihood that she will actually recover them. In such a situation, although the plaintiff’s employer would have paid the wages in the future had she remained employed, they are *presently* in controversy.

Id. (emphasis in original). Accordingly, “[t]he amount in controversy includes all relief claimed at the time of removal to which the plaintiff would be entitled if [he or she] prevails.” *Id.* at 418.

22. Courts within the Central District of California have repeatedly interpreted the Ninth Circuit’s holding in *Chavez* to mean that all lost wages from

1 the time of the individual's termination up through the date of trial must be
2 considered part of the amount in controversy. *See, e.g., Beltran v. Procare Pharm.,*
3 *LLC*, No. 2:19-cv-08819, 2020 WL 748643, at *3 (C.D. Cal. Feb. 14, 2020);
4 *Calhoun v. Consolidated Disposal Serv., LLC*, No. CV 19-2315-MWF, 2019 WL
5 2522677, at *3 (C.D. Cal. Jun. 18, 2019); *see also Molina v. Target Corp.*, No. CV
6 18-03181-RSWL, 2018 WL 3935347, at *3 (C.D. Cal. Aug. 14, 2018); *Zambrano*
7 *v. Rite Aid Corp.*, No. CV 18-9227-MWF, 2019 WL 1466744, at *3 (C.D. Cal. Apr.
8 3, 2019).

9 23. Applying this standard here, it is clear that the amount-in-controversy
10 requirement is entirely satisfied by Plaintiff's claims for past and future wages
11 alone. Plaintiff was separated from employment on March 21, 2023. *See Hale Decl.*,
12 at ¶ 5. Calculating Plaintiff's lost earnings from the time he was separated from
13 employment up through the date of the filing of this Notice of Removal with the
14 Central District of California (on April 18, 2024), Plaintiff is claiming more than a
15 year of lost wages. This equals at least \$53,000 in lost earnings up through the date
16 of removal. *See Hale Decl.*, at ¶ 5.

17 24. Furthermore, when a trial date has not been set, courts in the Central
18 District of California have routinely found one year from the date of removal to be
19 a **conservative** estimate for the purposes of calculating lost future wages. *See, e.g.,*
20 *Beltran*, 2020 WL 748643, at *3; *Calhoun*, 2019 WL 2522677, at *3.

21 25. Here, no trial date has been set and Plaintiff does not attempt to limit
22 his future wages through a specific period; nor does he allege that he has mitigated
23 his damages to cut off future wages by securing another job that provides
24 comparable pay. Accordingly, in assessing the amount in controversy, this Court
25 must add, at a minimum, another full year's worth of Plaintiff's alleged lost income.
26 Thus, Plaintiff's claim for lost wages from the time of removal to trial one year
27 from now (*i.e.*, in April of 2025) is conservatively worth another \$53,000. *See Hale*
28 *Decl.*, at ¶5.

26. When this \$53,000 figure is added to the \$53,000 in lost wages that Plaintiff seeks to recover from the date of his separation from employment up through the date of removal, it is clear that there is at least \$106,000.00 in controversy due to Plaintiff's claim for past and future wage loss alone.⁵ Indeed, Plaintiff himself characterizes his lost wages as "substantial." Complaint, ¶83.

2. Plaintiff's Alleged Attorneys' Fees Must Also be Factored into the Amount in Controversy

27. Attorneys' fees are also included in the amount in controversy if an underlying statute authorizes their award. *Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1155-56 (9th Cir. 1998) (attorneys' fees award may be included in the amount in controversy when an underlying statute authorizes their award). Moreover, at least one federal district court in California has noted "that in its twenty-plus years' experience, attorneys' fees in individual [employment] cases often exceed the damages." *Simmons*, 209 F.Supp.2d at 1034-35.

28. Here, Plaintiff seeks to recover attorney's fees under multiple statutes, including but not limited to, FEHA and the California Labor Code. *See, e.g.*, Complaint ¶¶ 31-32, 46, 48, 63-64, 96, 111, 115, 126, 128, and 142-143.

29. Notably, the Ninth Circuit clarified in 2018 that "a court must include future attorneys' fees recoverable by statute or contract when assessing whether the amount-in-controversy requirement is met." *Fritsch v. Swift Transp. Co. of Arizona*,

⁵ The above calculations do not include any amounts for other lost "benefits," which Plaintiff is also seeking to recover in this action. *See, e.g.*, Complaint ¶¶ 75, 78 & 83. Nor do the calculations include Plaintiff's claims for whistleblower penalties, failure to pay overtime and other wages, meal and rest break violations, failure to provide itemized wage statements, failure to pay wages upon termination, or violations of Business & Professions Code § 17200. The amount in controversy under these additional claims would be significant as well. To the extent Plaintiff seeks to remand the case to state court or the Court questions whether the amount in controversy exceeds \$75,000, Defendant reserves the right to provide evidence relating to these additional alleged damages.

1 *LLC*, 899 F.3d 785, 794 (9th Cir. 2018). “Accordingly, if the law entitles the
2 plaintiff to future attorneys’ fees if the action succeeds, then there is no question
3 that future [attorneys’ fees] are at stake in the litigation, and the defendant may
4 attempt to prove that future attorneys’ fees should be included in the amount in
5 controversy.” *Id.* (internal quotation marks and citations omitted).

6 30. District Courts within the Central District of California have extended
7 the Ninth Circuit’s holding in *Fritsch* to cases removed under traditional diversity
8 jurisdiction (*i.e.*, under 28 U.S.C. § 1332(a)). *See, e.g., Avila v. Kiewit Corp.*, No.
9 CV 19-5740-MWF, 2019 WL 4729641, *5-*6 (C.D. Cal. Sept. 26, 2019); *Adkins*
10 *v. Hertz Corp.*, No. CV 18-8062 FMO, 2018 WL 5840524, *2 (C.D. Cal. Nov. 6,
11 2018). District courts in this judicial district have also held that “*100 hours and an*
12 *hourly rate of \$300* is an appropriate and conservative estimate for employment
13 cases.” *See, e.g., Avila*, 2019 WL 4729641 at *6 (emphasis added).

14 31. Here, Plaintiff has two attorneys working on his lawsuit– Charles Ray
15 (SBN 282440), who has been practicing law for more than 11 years, and Douglas
16 Schenck (SBN 200699), who has been practicing law for over 24 years. If one
17 conservatively estimates that Plaintiff’s attorneys’ **average** hourly rate is \$300 per
18 hour (which is below the Laffey Matrix and other metrics used to determine market
19 rates for attorneys), and it only took Plaintiffs’ attorneys 10 hours of time to
20 investigate, draft, and file the Complaint in this case, the accrued attorneys’ fees as
21 of the time of the filing of this Notice of Removal are at least \$3,000. Then,
22 conservatively estimating only 90 more hours for Plaintiffs’ attorneys to
23 collectively see this matter through trial (including, but not limited to, engaging in
24 written discovery and depositions, opposing Defendant’s anticipated summary
25 judgment motion on Plaintiff’s claims and attending the hearing, preparing for trial,
26 etc.), this Court can conservatively estimate another \$27,000 in alleged attorneys’
27 fees related to Plaintiff’s claims. In short, using a *very* conservative estimate, it is
28 clear that at least \$30,000 in attorneys’ fees are at issue for purposes of assessing

1 the amount in the controversy. *See, e.g., Avila*, 2019 WL 4729641 at *6.

2 3. Plaintiff Also Seeks to Recover Damages For Ongoing Mental
3 and Emotional Distress.

4 32. As shown above, Defendant has established that the value of Plaintiff's
5 alleged relief in sections (1) through (2) is *at least* \$136,000. On top of that figure,
6 Plaintiff alleges that he has suffered, and continues to suffer "severe and/or
7 permanent emotional and/or mental distress and anguish, humiliation,
8 embarrassment, fright, shock, pain, discomfort and/or anxiety," *See, e.g.,*
9 Complaint, at ¶¶ 28, 44, 61.

10 33. "Courts consider emotional distress damages in determining the
11 amount in controversy and may look to damages awarded in similar cases in the
12 geographic area." *See Amado v. US Bancorp*, No. SACV 15-00871-JLS, 2015 WL
13 5618877, at *2 (C.D. Cal. Sept. 24, 2015) (citing *Kroske v. U.S. Bank Corp.*, 432
14 F.3d 976, 980 (9th Cir. 2005)).

15 34. Emotional distress damages, if proven, can be significant in
16 employment cases involving alleged discrimination. *Simmons*, 209 F. Supp. 2d at
17 1034 (noting a \$3.5 million award for pain and suffering in an employment
18 discrimination case, and recognizing that "emotional distress damages in a
19 successful employment discrimination case may be substantial."). A review of jury
20 verdicts in California where emotional distress damages were in play demonstrates
21 as much. *See, e.g., Silverman v. Stuart F. Cooper Inc.*, No. BC467464, 2013 WL
22 5820140 (Los Angeles Sup. Ct.) (jury awarded \$151,333 for emotional distress
23 damages in discrimination case); *Vasquez v. Los Angeles Cnty. Metro. Transp.*
24 *Auth.*, No. BC484335, 2013 WL 7852947 (Los Angeles Sup. Ct.) (award of
25 \$1,250,000 for pain and suffering to employee in discrimination action); *Aboulafia*
26 *v. GACN Inc.*, No. BC469940, 2013 WL 8115991 (Los Angeles Sup. Ct.) (pain and
27 suffering award of \$250,000, \$250,000, \$250,000, and \$250,267 to four employees
28 in discrimination action); *Ward v. Cadbury Schweppes Bottling Grp.*, 09CV03279

(DMG), 2011 WL 7447633 (C.D. Cal) (jury awards \$5,600,000 in non-economic damages in discrimination and retaliation case to six plaintiffs); *Welch v. Ivy Hill Corp.*, No. BC414667, 2011 WL 3293268 (Los Angeles Sup. Ct.) (award of \$1,270,000 in pain and suffering to employee in an discrimination action); *Leimandt v. Mega RV Corp.*, No. 30-2010-00388086, 2011 WL 2912831 (Orange County Sup. Ct.) (jury awarded \$385,000 in pain and suffering to employee in a discrimination case).

35. In fact, where the other identifiable damages put the amount in controversy even close to \$75,000 (which is not the case here, since the minimum jurisdiction amount is far exceeded as explained above), courts often use emotional distress damages to find the amount-in-controversy requirement has been satisfied. For instance, in *Kroske*, the Ninth Circuit upheld a district court's finding that emotional distress damages would "at least add an additional \$25,000 to [the plaintiffs] claim" in an age discrimination case where lost wages amounted to at least \$55,000. *Id.* Likewise, in *Amado*, the Central District of California concluded that in a situation where lost earnings was demonstrated to be \$61,000 through the date of removal, the defendant employer could rely on its assertion that emotional distress damages in employment cases can exceed \$14,000. *Amado*, 2015 WL 5618877 at *2.

36. Here, Plaintiff alleges that Defendant retaliated against him and terminated his employment for raising concerns that Defendant was not properly paying wages to its drivers and was retaliating against drivers who reported workplace injuries. Complaint, at ¶¶18 & 51. While Defendant disputes the claim, this is a serious allegation. Were the trier of fact to actually credit Plaintiff's assertion, the award for emotional distress damages could be significant.

4. Plaintiff's Prayer for Punitive Damages Also Must Be Considered in Assessing the Amount in Controversy

37. "As is the case for emotional distress damages, the amount of punitive

damages may be established based on jury verdicts in cases involving analogous facts.” *Rodriguez v. Home Depot USA, Inc.*, No. 16-cv-01945-JCS, 2016 WL 3902838, *6 (N.D. Cal. July 19, 2016). “The fact that the cited cases involve distinguishable facts is not dispositive, as long as the jury verdicts in the cited cases amply demonstrate the potential for large punitive damage awards in similar types of cases.” *Id.* Indeed, courts have affirmed jury verdicts exceeding \$1 million in punitive damages in alleged discrimination and retaliation cases. *See, e.g., Roby v. McKesson Corp.*, 47 Cal.4th 686 (2009) (holding that a punitive damage award of \$1.9 million equal to the compensatory damage award was appropriate in retaliation case); *McGee v. Tucoemas Federal Credit Union*, 153 Cal. App. 4th 1351 (2007) (jury award of \$1.2 million in punitive damages affirmed on appeal).

38. Here, Plaintiff claims that Defendant’s conduct was willful, wanton, malicious, fraudulent, callous, oppressive, shameful, deplorable, and despicable. *See, e.g., Complaint*, at ¶¶ 30, 47, 79. While Defendant adamantly disputes these allegations, they are serious in nature. Were Plaintiff to actually prevail on his claims, punitive damages more likely than not could exceed \$75,000.

39. For all of the foregoing reasons, it is clear that the amount in controversy in this case *far* exceeds \$75,000.

III. REMOVAL IS TIMELY AND PROPER

40. This Notice of Removal is also timely pursuant to 28 U.S.C. §§ 1446(b) as it has been filed within thirty days of the date on which service of the Complaint in the State Court Action on Defendant was complete—March 20, 2024. Indeed, under the applicable rules, Defendant has up to and including April 19, 2024 to timely remove this matter to federal court and it has satisfied that obligation. *See* 28 U.S.C. § 1446(b)(1) (“The notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant . . . of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based . . .”).

1 41. Because Defendant is the only named defendant in this action, no other
2 party's consent to this removal is required.

3 42. Pursuant to Section 1446(a) of Title 28, removal is also made to the
4 Central District of California, as the district court embracing the place where the
5 State Court Action is pending. *See* 28 U.S.C. § 84(c).

6 43. Venue is further proper in this Court because it is the "district and
7 division embracing the place where such action is pending." 28 U.S.C. § 1441(a).

8 44. Defendant is providing Plaintiff, by and through their counsel, written
9 notice of the filing of this Notice of Removal and all other papers as required by 28
10 U.S.C. § 1446(d). Further, Defendant is filing a copy of this Notice of Removal and
11 all related papers with the Clerk of the Superior Court of the State of California,
12 County of San Bernardino where the State Court Action is currently pending.

13 45. Defendant reserves the right to amend or supplement this Notice of
14 Removal, as well as the right to submit additional evidentiary declarations
15 supporting and/or buttressing the amount in controversy should Plaintiff attempt to
16 remand the action for any reason or if the Court has any questions. Defendant
17 further reserves all defenses it has to Plaintiff's claims.

18 **IV. PRAYER**

19 46. Wherefore, Defendant requests that the above-captioned action now
20 pending against it in the Superior Court of California, County of San Bernardino,
21 be removed to this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

22
23 DATED: April 18, 2024

24
25 By: /s/ Drew R. Hansen
26 Drew R. Hansen
27 Attorneys for Defendant C.R. ENGLAND,
28 INC.