

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Civil Division

MICHAEL ROSENGART,

*

*

Plaintiff,

*

Case No. 2020 CA 001710 B

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v.

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BYNDFIT, LLC, et al.,

*

Before the Honorable Juliet McKenna

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Defendants.

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NOTICE OF FILING OF NOTICE OF REMOVAL

PLEASE TAKE NOTICE that on September 8, 2023, the above-captioned action was removed by Defendant Raymond Rahbar, with consent from the actual corporate entities, to the United States District Court for the District of Columbia, in which all further proceedings in this matter shall be held. A copy of the Notice of Removal filed in the United States District Court for the District of Columbia is attached hereto as Exhibit 1.

Respectfully submitted,



/s/ Raymond Rahbar

Date Signed: 9/8/2023

Raymond Rahbar

10110 Nedra Drive

Great Falls, VA 22066

703-597-3034

Raymond.rahbar@gmail.com

EXHIBIT A

complaint, commenced a civil action by filing a Complaint primarily for alleged unpaid wages in the D.C. Superior Court, Case No. **2020 CA 001710 B**.

2. Michael Rosengart, a Maryland resident according to his own filed complaint, originally commenced this action on March 12, 2020, by filing a complaint (“Complaint”) against multiple defendants: BF Management LLC, a Virginia entity, BYND Holding LLC, a Virginia entity, a valid trademark in “BYNDfit” (trademarks are not capable of being sued), Raymond Rahbar, a Virginia resident, Ryan Macaulay, a Maryland resident and Carl Pierre, a then-Maryland resident (now living in Virginia).

3. To date, Defendant “BYNDfit, LLC” has not been served under the laws of District of Columbia or the Commonwealth of Virginia.

4. Mr. Rahbar was served on December 12, 2020.

5. At the time of filing the complaint, diversity jurisdiction did not exist as then co-Defendant Ryan Macaulay and then co-Defendant Carl Pierre resided in the same state as Plaintiff - Maryland.

6. Further, the amount in controversy was stated by Plaintiff as being less than \$75,000.00.

7. Subsequently, nearly one year later on February 2, 2021, Plaintiff admitted that both then co-Defendant Ryan Macaulay and then co-Defendant Carl Pierre were wrongfully attached to the case and dismissed all counts against both parties.

8. Further, in Plaintiffs latest Court filing, Plaintiff for the first time, alleges damages in excess of \$75,000.00 despite originally stating that the amount in controversy was less than \$75,000.00 for the sole purpose of defeating federal removal.

9. This Court has original jurisdiction of this dispute pursuant to 28 U.S.C. §1332. In further support of this Notice of Removal, Defendants state as follows:

**THE STATUTORY REQUIREMENTS FOR REMOVAL BASED ON DIVERSITY
JURISDICTION AND AMOUNT IN CONTROVERSARY ARE NOW MET**

10. Pursuant to 28 U.S.C. § 1332(a), district courts have original jurisdiction of all civil actions in which the matter in controversy (a) exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and (2) is between citizens of different States.

11. Plaintiff lists his address on their pleadings as 18819 Island Drive, Hagerstown, MD 21742. Therefore, Plaintiff is domiciled in and deemed a citizen of Maryland.

12. None of the individual corporate owners named as defendants are residents or citizens of Maryland nor have they ever been domiciled or deemed a citizen of Maryland.

13. Specifically, to the extent Defendant BYNDfit, LLC is named in this action, it is either a federal trademark governed by federal law and incapable of being sued, or a business entity formed under the laws of the Commonwealth of Virginia. Further, there is no such allegation or claim that “BYNDfit, LLC” is a citizen of Maryland for any purpose, including, but not limited to, for purposes of determining diversity of citizenship.

14. Defendant BF Management, LLC is a business entity formed under the laws of the Commonwealth of Virginia and has never conducted business in Maryland. A corporation is deemed a citizen of any state by which it has been incorporated and of the state where it has a principal place of business. See 28 U.S.C. § 1332(c). Accordingly, BF Management, LLC is not a citizen of Maryland for purposes of determining diversity of citizenship.

15. Defendant BYND Holding, LLC is a business entity formed under the laws of the Commonwealth of Virginia and has never conducted business in Maryland. A corporation is deemed a citizen of any state by which it has been incorporated and of the state where it has a

principal place of business. See 28 U.S.C. § 1332(c). Accordingly, BYND Holding, LLC is not a citizen of Maryland for purposes of determining diversity of citizenship.

16. Defendant Raymond Rahbar is, and has been, a resident of the Commonwealth of Virginia. Accordingly, Defendant Rahbar is not a citizen of Maryland for purposes of determining diversity of citizenship. See 28 U.S.C. § 1332(a).

17. The Complaint asserts and alleges claims less than \$75,000.00 dollars.

18. However, in Plaintiffs latest filing – they now assert claims far exceeding \$75,000.00 despite not having filed an amended complaint at any time.

19. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §1332 in that it is a civil action between citizens of different states where the amount in controversy exceeds \$75,000.00.

20. There is now complete diversity of citizenship between Plaintiff and Defendants.

21. The amount in controversy in this action exceeds \$75,000.00.

22. Consequently, federal subject matter jurisdiction is proper over the entire case pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

23. Copies of all pleadings and orders served upon Defendants are attached as Exhibit A.

24. A copy of the Notice of Filing of Notice of Removal, which will be timely filed with the clerk of the state court in which the action is pending and will be served on Plaintiff pursuant to 28 U.S.C. § 1446 (d), is attached hereto as Exhibit B.

25. This Notice of Removal is signed pursuant to Fed. R. Civ. P. 11. *See* 28 U.S.C. § 1446(a).

26. Based on the foregoing, this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332 and the claims are properly removed to this Court under 28 U.S.C § 1332, 1441 and 1446.

27. In the event that Plaintiff seeks to remand this case, or this Court considers remand sua sponte, Defendants respectfully request the opportunity to submit such additional argument or evidence in support of removal as may be necessary.

WHEREFORE, this action should proceed in the United States District Court for the District of Columbia.

Respectfully submitted,

/s/ Raymond Rahbar
Date Signed: 9/8/2023
Raymond Rahbar
10110 Nedra Drive
Great Falls, VA 22066
703-597-3034
Raymond.rahbar@gmail.com

CERTIFICATE OF SERVICE

I certify that that a true and correct copy of the foregoing Notice was served on September 8, 2023, (i) electronically, via Notice of Electronic Filing upon all registered users in this case pursuant to this Court's CM/ECF policy; (ii) electronically, via Washington DC Superior Court's mandatory electronic system; (iii) via email to David Scher, counsel for Michael Rosengart; (v) via U.S. mail, first-class postage prepaid, to David Scher, Counsel for Defendant Michael Rosengart; (vi) via email to Mikhael Charnoff, Counsel for Debtor BF Management, LLC and Defendant BYND Holding, LLC; and (vii) via email to John Forest, Counsel for Debtor BF Management, LLC.

Respectfully submitted,



/s/ Raymond Rahbar

Date Signed: 9/8/2023

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WHEREFORE, this action should proceed in the United States District Court for the District of Columbia.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Rahbar', written in a cursive style.

/s/ Raymond Rahbar

Date Signed: 9/8/2023

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