

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

Kristina Bolling-Owen and all others similarly situated,	)	<b>C/A No. 3:15-av-99999</b>
	)	
	)	
Plaintiff,	)	
	)	<b>PETITION FOR REMOVAL</b>
v.	)	
	)	
Lumber Liquidators, Inc. and Lumber Liquidators Holdings, Inc.,	)	
	)	
Defendant.	)	

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**TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA**

The Defendants, above named, hereby files this Petition for Removal of this action from the Dorchester County Court of Common Pleas to the United States District Court for the District of South Carolina, Florence Division, and would allege as follows:

1. This action was instituted by the filing of a Summons and Complaint with the Clerk of Court for Dorchester County on April 8, 2015. . Formal service of the Summons and Complaint were perfected upon the Defendants on April 8, 2015. Defendants deny the allegations and damages filed in the Complaint, and files this petition without waiving and defenses, exceptions, or obligations that may exist in its favor in either state or federal court.

2. A copy of all records and proceedings occurring in the State Court prior to removal and all documents included in the State Court record are attached as Exhibit “A”. These pleadings constitute all process, pleadings, and orders served on your

Petitioner to date in this suit. The State Court proceeding is within the jurisdiction of this Court.

3. The County of Dorchester is located within the District of South Carolina, Charleston Division.

4. This action is a civil class action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332 (d)(2)(A), and is one that may be removed to this Court pursuant to the provisions of 28 U.S.C. §§ 1441, 1446, and 1453. It is removable under 28 U.S.C. § 1332 (d)(2)(A) because it is a putative class action in which at least one member of the class of plaintiffs is a citizen of a state different from that of the Defendants, the number of members of the putative class of plaintiffs is more than 100, and the amount in controversy, if plaintiffs prove their allegations, exceeds \$5,000,000, exclusive of interest and costs. *See* 28 U.S.C. § 1332 (d)(2), (d)(5)(B).

5. The Class Action Fairness Act (“CAFA”) defines a “class action” as “any civil action filed under rule 23 of the Federal Rules of Civil Procedure or similar State statute . . . authorizing an action to be brought by 1 or more representative persons as a class action.” 28 U.S.C. §1332(d)(1)(B). Plaintiffs allege that they bring the action on behalf “All consumers in South Carolina who have purchased and/or used Lumber Liquidators flooring manufactured in China”. (Pet. For Damages ¶ 26.) Plaintiffs further allege that “[t]he class is so numerous that the individual joinder of all its members, in this or any action, is impracticable. The exact number or identification of the Class members is presently unknown to the Plaintiff, but it is believed that Class members number at least in the thousands.” (*Id.* ¶26.).

6. The diversity requirement of §1332(d) is satisfied when any member of a class of plaintiffs is a citizen of a state different from any defendant. *See* 28 U.S.C. §1332(d)(2)(A).

- a. The named Plaintiff, Kristina Bolling-Owen, is a resident and citizen of the State of South Carolina. (Complaint at ¶ 1.)
- b. Lumber Liquidators, Inc. is a corporation organized and existing under the law of the state of Delaware, with its principal place of business located in Toano, Virginia. (Complaint at ¶ 3.) Therefore, Defendant is a citizen of the states of Delaware and Virginia. *See* 28 U.S.C. §1332(c)(1).

7. The Petition for Damages makes allegations of putative class members that exceeds 100, as required under 28 U.S.C. §1332(d)(5)(B). Plaintiffs allege that the putative class action consists of all persons and entities in South Carolina who “purchased and/or used Lumber Liquidators flooring manufactured in China”. Given the number of sales transactions and customers of Lumber Liquidators in South Carolina, this description of the claims by the plaintiffs far exceed the required 100 putative members.

8. Pursuant to 28 U.S.C. §1332(d)(2), this Court has “original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs.” As provided in 28 U.S.C. §1332(d)(6), “[i]n any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs.”

- a. “[A] defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee Basin Operating Co. v. Owens*, 135 S. Ct. 547, 554 (2014); *see Ibarra v. Manheim Invs., Inc.*, 775 F.3d 1193, 1197 (9th Cir. 2015). No submission of evidence accompanying the removal notice is required. *Owens*, 135 S. Ct. at 554. Defendant does not concede that it is liable to plaintiffs or the purported class in any amount, or at all. Nevertheless, without conceding the merit of plaintiffs’ allegations, a fair

reading of the Petition for Damages demonstrates that the “matter in controversy” well exceeds the sum or value of \$5,000,000 for purposes of removal.

- b. In their Petition the plaintiffs are seeking actual damages, treble damages, punitive damages, costs and attorney fees and allege breaches of express and implied warranties, unjust enrichment, violations of the South Carolina Unfair Trade Practices Act, Fraud, and Negligence.
- c. In their Petition, plaintiffs allege that there are defects with Defendant’s Chinese wood flooring materials and “Chinese-sourced products.” The sales in South Carolina for Defendant’s flooring sourced, processed or manufactured in China exceeded \$5 million dollars in 2014 alone—without incorporating any additional alleged damages such as the costs of removing and replacing the products.
- d. In light of Plaintiffs’ demands for restitution of the total purchase price paid to Defendant for at issue products, the matter in controversy exceeds the sum or value of \$5,000,000 exclusive of interest and costs. Therefore, pursuant to 28 U.S.C. §§1441, 1446, and 1453, this action is removable.

9. The action does not fall within any exclusion to removal jurisdiction recognized by 28 U.S.C. §1332(d) because Defendant is not a citizen of Louisiana, the state in which the action originally was filed, and no other exclusion applies.

10. The Defendant is filing its Notice of Removal of the Civil Action within thirty (30) days after receipt of the filed Summons and Complaint pursuant to 28 U.S.C. § 1446.

11. Counsel for Lumber Liquidators, Inc. certifies that pursuant to 28 U.S.C. §1446(d), copies of this Notice of Removal will be filed with the Clerk of Court for the County of Dorchester, State of South Carolina, and served on Plaintiffs promptly.

12. This action is related, in both allegations and Defendants named, to four cases pending in United States District Court for the District of South Carolina, and which have all been assigned to The Honorable R. Brian Harwell. The Civil Action

numbers of the related cases are 4:15-cv-01111-RBH; 2:15-cv-01176-RBH; 3:15-cv-01259-RBH; and 2:15-cv-01175-RBH.

**WHEREFORE**, your Petitioner prays that the action be removed to the United States District Court for the District of South Carolina, Charleston Division.

AIKEN, BRIDGES, ELLIOTT, TYLER  
& SALEEBY, P. A.

s/Jay R. Lee

JAY R. LEE

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Florence, South Carolina  
May 8, 2015

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

Kristina Bolling-Owen and all others	)	<b>C/A No. 3:15-av-99999</b>
similarly situated,	)	
	)	
Plaintiff,	)	
	)	<b>CERTIFICATE OF SERVICE</b>
v.	)	
	)	
Lumber Liquidators, Inc. and Lumber	)	
Liquidators Holdings, Inc.,	)	
	)	
Defendant.		

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I hereby certify that the **PETITION FOR REMOVAL** of the Defendants was filed electronically on May 8, 2015 and is available for viewing and downloading from the ECF system. Notice of Electronic Case Filing has been sent automatically to all parties listed in the Service List in effect on the date of electronic filing, which constitutes service of same and satisfies the requirements of Fed. R. Civ. P. 5(b)(2)(D). The following parties were served via ECF:

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(signature block on next page)

AIKEN, BRIDGES, ELLIOTT, TYLER  
& SALEEBY, P. A.

s/Jay R. Lee

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