

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

THOMAS ALSTON,

Plaintiff,

v.

WHOLE FOODS MARKET GROUP

Defendant.

Case No. 1:17-cv-2580

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant Whole Foods Market Group, Inc. (incorrectly named in the case caption as “Whole Foods Market Group”), by counsel, hereby files its Notice of Removal of this action from the Superior Court for the District of Columbia to the United States District Court for the District of Columbia.

Defendant bases its removal on the following grounds:

1. On November 3, 2017, Plaintiff Thomas Alston, filed an action against Defendant in the Superior Court for the District of Columbia, captioned *Thomas Alston v. Whole Foods Market Group*, No. 2017 CA 007449 B. A copy of the Complaint is attached hereto and marked as Exhibit A.

2. Defendant was served with the Complaint and Summons on November 3, 2017 and has timely filed this removal within thirty days in accordance with 28 U.S.C. § 1446(b)(3) (“[A] notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.”).

3. In addition to the Summons and Complaint, Defendant was served with the Superior Court Initial Order and Addendum. True and correct copies of these documents and other related court documents are included in Exhibit A.

4. In the Complaint, Plaintiff alleges violations of the District of Columbia Consumer Protection Procedures Act, D.C. Code 28-3901 et seq. (“DCCPPA”) and a claim of fraud.

5. Removal of this action is appropriate because diversity jurisdiction exists under 28 U.S. C. 1332. Plaintiff and Defendant are citizens of different states and the amount in controversy exceeds the sum of \$75,000. Plaintiff is a citizen of Maryland. (See Complaint, Plaintiff’s Signature Block) Defendant is a citizen of the States of Delaware and Texas. (Declaration of David Gearhart at ¶ 3 attached hereto as Exhibit B) Whole Foods Market Group, Inc. is a corporation organized and existing under the laws of the State of Delaware with a principal place of business in Austin, Texas. *Id.* The damages claimed by Plaintiff are well in excess of \$75,000, as Plaintiff claims punitive damages in the amount of \$500,000.

6. Concurrent with the filing and service of this Notice of Removal, Defendant has served a Notice of Filing Notice of Removal on Plaintiff, and has filed such Notice with the Clerk of Court for the Superior Court for the District of Columbia. *See* Defendant’s Notice of Filing Notice of Removal attached hereto as Exhibit C.

WHEREFORE, Defendant files this Notice of Removal so that the entire court action under Civil Action Number 2017 CA 007449 B now pending in the Superior Court for the District of Columbia is removed to this Court for all further proceedings.

Respectfully submitted,

/s/ Christopher E. Humber

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Counsel for Defendant

CERTIFICATE OF SERVICE

I HEREBY certify that a true copy of the foregoing was electronically filed via the Court's ECF filing system on this 4th day of December, 2017, with a copy served by United States mail, postage prepaid to:

Thomas Alston, *pro se*
10012 Cedarhollow Lane
Largo, MD 20774

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

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