

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
WEST PALM BEACH DIVISION**

MARGARET SCHULTZ, Individually and on  
Behalf of All Others Similarly Situated,

Plaintiff,

v.

AMERICAN AIRLINES, INC.,

Defendant.

No. 9:18-cv-80633

**NOTICE OF REMOVAL**

Defendant American Airlines, Inc. (“American”) hereby removes the above-captioned action from the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida to the United States District Court for the Southern District of Florida, pursuant to 28 U.S.C. §§ 1331, 1332, 1441, and 1446. In support of this Notice of Removal, Defendant states as follows:

1. On April 11, 2018, Plaintiff Margaret Schultz (“Plaintiff”) filed a putative class action complaint in the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida, captioned *Schultz v. American Airlines, Inc.*, No. 502018CA004403XXXXMB (“Complaint”). Plaintiff served the Complaint on Defendant on April 24, 2018. A copy of the Complaint (attached as Exhibit 1) and the Summons served on American are attached as Exhibit 1 and 2, respectively. All other papers filed in the State Court action through the date of this removal are attached as Exhibit 3.<sup>1</sup>

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<sup>1</sup> The attached papers contain the watermark “NOT A CERTIFIED COPY”. This watermark is placed there by the state court when documents are electronically downloaded from its website.

2. American may properly remove this action pursuant to 28 U.S.C. § 1441(a), because this Court would have original jurisdiction over this matter under 28 U.S.C. § 1332(d) or 28 U.S.C. § 1331.

**A. Removal Under the Class Action Fairness Act (CAFA)**

3. Pursuant to CAFA, 28 U.S.C. § 1332(d), and 28 U.S.C. § 1441(a), an action may be removed when there is at least minimal diversity of citizenship of all named parties, and the aggregate claims of all individual class members exceeds \$5,000,000, exclusive of interests and costs. 28 U.S.C. §§ 1332(d), 1441(a). Both criteria are met here.

**Diversity of Citizenship**

4. For purposes of determining diversity, an individual is deemed to be a citizen of his or her state of domicile, and a corporation is deemed to be a citizen of both the state of its incorporation and the state where it has its principal place of business. 28 U.S.C. § 1332(c)(1); *see also Brandt v. Weather Channel, Inc.*, 42 F. Supp. 2d 1344, 1344 (S.D. Fla. Mar. 18, 1999). It is a “well-settled rule for class actions that a court should consider only the citizenship of the named parties to determine whether there is diversity jurisdiction.” *Triggs v. John Crump Toyota*, 154 F.3d 1284, 1288 (11th Cir. 1998)

5. Plaintiff Margaret Schultz is a resident and citizen of Florida. Complaint ¶ 1.

6. Defendant American Airlines, Inc. is incorporated in the State of Delaware and has its headquarters in the State of Texas. Complaint ¶ 2.

7. There is therefore at least minimal diversity of all named parties.

**Amount in Controversy**

8. Under CAFA, “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.”

9. Based upon Plaintiff’s allegations, the aggregate claims of the class members in this action exceed \$5,000,000.

10. Plaintiff alleges that American’s customers are routinely injured by a “systematic” flaw in American’s online booking system. Complaint ¶¶ 5(a)(ii).

11. Indeed, Plaintiff herself claims to have been “victimized by the offending conduct no less than three times in five months.” Complaint ¶¶ 5(a)(iii). And Plaintiff alleges that her experience is “identical” to and representative of the experiences of other American customers. *See, e.g.*, Complaint ¶¶ 79-80, 83-84.

12. Plaintiff alleges that “[t]ens of thousands of airline flights are booked on American’s website, aa.com, each day.” Complaint ¶¶ 5(a)(ii), (iv). Over the course of just one year, therefore, Plaintiff alleges that millions to tens of millions of airline flights are booked on American’s website.

13. Based upon Plaintiff’s allegations, therefore, as many as *tens of millions* of airline flight bookings annually are impacted by a “systematic” flaw in American’s website. Indeed, plaintiff seeks to certify a nationwide class. Complaint ¶¶ 4, 76.

14. Plaintiff further alleges that “[t]he known instances of the offending conduct projects that each Class Member incurred approximately \$30 in damages.” Complaint ¶ 5(b).<sup>2</sup>

15. In addition, each class member also seeks further incidental and consequential damages. Complaint ¶ 71.

16. If each class member alleges \$30 of damages per incident, as well as further incidental and consequential damages, then even a conservative estimate of the aggregate damages sought by all individual class members as a result of (1) an allegedly “systematic” flaw in American’s booking system, (2) that impacts some significant share of *tens of millions* of bookings annually, (3) over a class period extending several years, would easily exceed \$5,000,000, based upon Plaintiff’s allegations.

17. While American believes that Plaintiff’s allegations are utterly without merit, Plaintiff’s Complaint itself plainly *alleges* aggregate classwide damages of more than \$5,000,000. This is enough to satisfy CAFA for purposes of removal. *See Dart Cherokee Basin Operating Co. v. Owens*, 135 S.Ct. 547 (2014) (noting that at the removal stage the amount in controversy can be satisfied without the presentation of evidence). This Court therefore has jurisdiction pursuant to 28 U.S.C. § 1332(d).

#### **B. Federal Question Jurisdiction**

18. The Court also has jurisdiction pursuant to 28 U.S.C. § 1331 because resolution of Plaintiff’s state-law claims turn on the resolution of substantial federal questions. *See Grable & Sons Metal Prods., Inc. v. Darue Eng’g. & Mfg.*, 545 U.S. 308, 312 (2005) (federal question

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<sup>2</sup> Plaintiff provides no explanation for that estimate. She alleges that her own ticket price was increased from \$197 to \$297, and then from \$297 to \$379—a purported total increase of \$180. *See* Complaint ¶¶ 27-29.

jurisdiction exists if state-law claims “raise a federal issue, actually disputed and substantial, which a federal forum may entertain without disturbing any congressionally approved balance of federal and state responsibilities.”); *Bader Farms, Inc. v. Monsanto Co.*, 2017 WL 633815 (E.D. Mo. Feb. 16, 2017) (finding federal jurisdiction to lie over state law claims implicating practices of federal agency in deregulating a new seed).

19. As Plaintiff recognizes, her state law claims turn, in part, on the resolution of whether those claims are preempted by the Airline Deregulation Act of 1978, 49 U.S.C. § 40101, *et seq.* In furtherance of her breach of contract claim, therefore, Plaintiff specifically alleges that “[t]he Airline Deregulation Act of 1978 does not preempt state breach-of-contract actions between consumers and an airline.” Complaint ¶ 57. Plaintiff also has expressly confirmed that the claims of the putative class require a determination of several federal questions:

- “Whether the Class’ breach-of-contract actions are preempted by the Airline Deregulation Act of 1978, 49 U.S.C. § 40101 *et seq.*” Complaint ¶ 80(g)
- Whether a choice-of-law clause applicable to this action “is unenforceable as violative of the public policy embodied in the Airline Deregulation Act of 1978, 49 U.S.C. § 40101, *et seq.*” Complaint ¶ 80(j).

As a result, it is undisputed that Plaintiff’s claims require this Court to resolve important federal questions.

#### **COMPLIANCE WITH REMOVAL PROCEDURES**

20. Venue is proper in the Southern District of Florida (West Palm Beach Division) because it is the federal judicial district and division encompassing the Fifteenth Judicial Circuit in and for Palm Beach County, Florida, where this suit was originally filed. 28 U.S.C. § 1441(a).

21. Removal is timely because Defendants filed this Notice of Removal within thirty days of receiving service of the Complaint. 28 U.S.C. § 1446(b). See Exhibit 2.

22. None of “the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.” 28 U.S.C. § 1441(b)(2) (emphasis added).

23. Pursuant to 28 U.S.C. § 1446(d), Defendants will provide Plaintiff with written notice of the filing of this Notice of Removal and file a copy of this Notice of Removal with the Clerk of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida.

24. Pursuant to 28 U.S.C. § 1446(a), Defendants have attached all copies of pleadings, process, and orders they received and which were filed in the State Court action as Exhibits 1, 2, and 3.

#### **NON-WAIVER OF DEFENSES**

25. Defendant removes this case subject to and without waiver of any challenges that it may have as to personal jurisdiction, proper venue, or any other claims or defenses that may be available, all of which are expressly reserved.

26. By removing this action, Defendant does not admit any of the allegations in the Complaint.

27. Defendant respectfully reserves the right to amend or supplement this Notice of Removal as may be appropriate.

#### **CONCLUSION**

**WHEREFORE** Defendant hereby removes this action from the Fifteenth Judicial Circuit in and for Palm Beach County, Florida to the United States District Court for the Southern District of Florida, and respectfully request that this Court enter such other and further orders as may be necessary to accomplish the requested removal.

Dated: May 14, 2018

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 14<sup>th</sup> day of May, 2018, a true and correct copy of the foregoing was filed using the Court's CM/ECF system and was served on all counsel or parties of record on the attached List by the method indicated.

By: s/Humberto H. Ocariz

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