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 PeopleConnect, Inc. dba Intelius

8
 9 UNITED STATES DISTRICT COURT
 10 CENTRAL DISTRICT OF CALIFORNIA
 11 WESTERN DIVISION

13 SANDRA WARNOCK, individually
 and on behalf of all others similarly
 14 situated,

15 Plaintiff,

16 v.

17 PEOPLECONNECT INC. d/b/a
 Intelius; ABNI HELLER, and DOES
 18 1-10,

19 Defendant(s).

No. 2:20-cv-5676

**DEFENDANT PEOPLECONNECT,
 INC. dba INTELIUS'S NOTICE OF
 REMOVAL**

[Removal of civil action from Superior
 Court of California, County of San Luis
 Obispo, Case No. 19CV-0539]

[Filed concurrently with:
 1. Declaration of Brad Toney;
 2. Disclosure Statement and Notice of
 Interested Parties.]

1 Defendant PeopleConnect, Inc. dba Intelius, under 28 U.S.C. Section 1441,
2 removes to this Court the state action described below, which is within the original
3 jurisdiction of this Court and properly removed under 28 U.S.C. Sections 1332,
4 1367, 1441, 1446, and 1453. Under 28 U.S.C. Section 1446(d), copies of this
5 Notice of Removal are being served on counsel for Plaintiff Sandra Warnock, and
6 filed with the Clerk of the California Superior Court for the County of San Luis
7 Obispo.

8 **PROCEDURAL HISTORY AND TIMELINESS OF REMOVAL**

9 1. On September 12, 2019, Plaintiff filed a putative class action
10 captioned *Warnock et. al. v. PeopleConnect Inc. et. al.*, against PeopleConnect in
11 California Superior Court, County of San Luis Obispo, Case No. 19CV-0539. The
12 original complaint was never served on PeopleConnect.

13 2. On April 30, 2020, Plaintiff filed the First Amended Complaint
14 (“FAC”).

15 3. On May 26, 2020, Plaintiff served PeopleConnect with the FAC, Civil
16 Case Cover Sheet, and Amended Summons.

17 4. This notice is timely under 28 U.S.C. Section 1446(b) because it is
18 filed within 30 days of May 26, 2020.

19 5. A true and correct copy of the Register of Actions in the State Court
20 Proceeding is attached to this Notice as Exhibit 1.

21 6. True and correct copies of all process, pleadings, and orders served
22 upon PeopleConnect in the State Court Action are attached to this Notice as
23 Exhibit 2.

24 7. Defendant Abani Heller is the former Chief Executive Officer of
25 PeopleConnect. Toney Decl. ¶ 4. Based on the state court docket, Mr. Heller has
26 not been joined or served with a copy of the state court summons. Because Plaintiff
27 has not properly joined or served the only other named defendant in this action, no
28 consent to removal is necessary at this time.

1 **ALLEGATIONS OF THE FAC**

2 8. This action is a putative class action against PeopleConnect and its
3 former CEO on behalf of those who, according to Plaintiff, were charged an
4 automatic renewal fee for PeopleConnect’s products. Plaintiff’s FAC purports to
5 allege causes of action for violations of (1) California’s Unfair Competition Law
6 (UCL), California Business and Professions Code Section 17200, *et. seq.*; (2)
7 California’s False Advertising Law (FAL), California Business and Professions
8 Code Section 17500 *et. seq.*; and (3) the Consumer Legal Remedies Act (CLRA),
9 California Civil Code Section 1750 *et. seq.* Plaintiff seeks actual and punitive
10 damages, as well as injunctive relief, restitution, attorneys’ fees, costs, and interest.

11 9. PeopleConnect disputes Plaintiff’s allegations, believes the FAC fails
12 to state a claim and lacks merit, and denies that Plaintiff or the putative class
13 members have been harmed in any way or are entitled to any remedy.

14 **DIVERSITY JURISDICTION**

15 10. This Court has original jurisdiction over “all civil actions where the
16 matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and
17 costs, and is between citizens of different States[.]” 28 U.S.C. § 1332(a)(1).

18 11. Amount in Controversy. The amount in controversy exceeds \$75,000.
19 Plaintiff alleges that she was wrongfully charged a \$29.95 renewal fee for a product
20 she purchased. FAC ¶¶ 11-18. Plaintiff further alleges that the class of individuals
21 she seeks to represent “includes thousands of members.” FAC ¶¶ 34-35. The
22 \$75,000 threshold is met if 2,505 individuals were charged \$29.95. Plaintiff also
23 seeks punitive damages, attorneys’ fees, and costs. As pleaded, the amount in
24 controversy exceeds \$75,000.

25 12. Plaintiff also seeks injunctive relief. When evaluating the value of an
26 injunction for amount in controversy purposes, the Ninth Circuit follows the “either
27 viewpoint” rule. Under the “either viewpoint” rule, the amount in controversy is the
28 pecuniary result the judgment would directly produce to either party. This

1 pecuniary result includes the cost to defendant to implement an injunction. *See, e.g.,*
 2 *In re Ford Motor Co./Citibank*, 264 F.3d 952, 958 (9th Cir. 2001), *cert. granted in*
 3 *part sub nom. Ford Motor Co. v. McCauley*, 534 U.S. 1126 (2002), *cert. dismissed*,
 4 537 U.S. 1 (2002); *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 398, 405 (9th
 5 Cir. 1996). The costs to implement an injunction in this case would also exceed
 6 \$75,000 because, among other reasons, Plaintiff seeks an injunction to stop
 7 PeopleConnect from selling certain background report products. *See* FAC ¶¶ 15, 22.

8 13. Diversity of Citizenship. Plaintiffs and Defendants are citizens of
 9 different states. Plaintiff is a citizen of San Luis Obispo County, California. FAC ¶¶
 10 5-6. The class is defined as “[a]ll persons in California” FAC ¶ 32.
 11 PeopleConnect is incorporated in Delaware with its principal place of business in
 12 Washington state. Declaration of Brad Toney (“Toney Decl.”) ¶¶ 2-3.¹ Abni Heller
 13 is no longer the CEO of PeopleConnect and he resides in Washington state. *Id.* at ¶
 14 4.

15 14. Supplemental Jurisdiction. This Court may choose to adjudicate any
 16 state-law claims that are so related that they form part of the same case or
 17 controversy under Article III. 28 U.S.C. Section 1367(a).

18 CAFA JURISDICTION

19 15. This action is also within the original jurisdiction of this Court, and
 20 removal is proper under the Class Action Fairness Act of 2005 (“CAFA”), 28
 21 U.S.C. Section 1332(d), which grants district courts original jurisdiction over class
 22 actions in which the amount in controversy exceeds \$5,000,000, and any member of
 23 the class of plaintiffs is a citizen of a State different from any defendant. As set
 24 forth below, this action satisfies each of the requirements of Section 1332(d)(2) for
 25 original jurisdiction under CAFA. *See Standard Fire Ins. Co. v. Knowles*, 568 U.S.
 26 588, 592 (2013).

27 _____
 28 ¹ The FAC erroneously alleges that PeopleConnect’s headquarters is in Long
 Beach, California, and that Long Beach is in San Luis Obispo County. FAC ¶ 5.

1 16. Covered Class Action. This action meets the CAFA definition of a
2 class action, which is “any civil action filed under [R]ule 23 of the Federal Rules of
3 Civil Procedure or similar State statute or rule of judicial procedure.”

4 28 U.S.C. §§ 1332(d)(1)(B), 1453(a) & (b); FAC ¶ 1.

5 17. Diversity. The required diversity of citizenship under CAFA is
6 satisfied because “any member of a class of plaintiffs is a citizen of a State different
7 from any defendant.” 28 U.S.C. § 1332(d)(2)(A). Plaintiff is a citizen of San Luis
8 Obispo County, California as of the time the lawsuit was filed. 28 U.S.C. §
9 1332(d)(7). FAC ¶ 6. PeopleConnect is incorporated in Delaware with its principal
10 place of business in Washington. Toney Decl. ¶¶ 2-3. Mr. Heller also resides in
11 Washington. *Id.* ¶ 4. CAFA’s diversity requirement is thus satisfied. 28 U.S.C. §
12 1332(d)(2)(A).

13 18. Class Action Consisting of More than 100 Members. Plaintiff purports
14 to represent a class of “thousands” of members. FAC ¶ 34-35. PeopleConnect
15 reasonably believes the number of purported class members, in the unlikely event
16 that Plaintiff can certify a class, would be greater than 100.

17 19. Amount in Controversy. Under CAFA, the claims of the individual
18 class members are aggregated to determine if the amount in controversy exceeds
19 the requested “sum or value of \$5,000,000, exclusive of interest and costs.” 28
20 U.S.C. §§ 1332(d)(2), (d)(6). Plaintiffs seek actual damages, punitive damages,
21 injunctive relief, and costs and fees, including attorneys’ fees pursuant to the CLRA
22 claim. *See* FAC Prayer for Relief. Without conceding any merit to the FAC’s
23 damages allegations or causes of action, PeopleConnect reasonably believes the
24 aggregate amount placed in controversy by Plaintiff here would satisfy CAFA’s
25 jurisdictional threshold.

26 CONCLUSION

27 20. PeopleConnect, having satisfied all requirements for removal under 28
28 U.S.C. Sections 1332, 1367, 1441, 1453, and 1446, respectfully submits this Notice

1 of Removal, requests that the Action be removed, and requests that the Court
2 assume full jurisdiction over the case as provided by law.

3 WHEREFORE, PeopleConnect respectfully removes this action from the
4 California Superior Court, County of San Luis Obispo, to this Court.

5
6 Dated: June 25, 2020

MANATT, PHELPS & PHILLIPS, LLP

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By: /s/ Justin Jones Rodriguez

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Christine M. Reilly

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Justin Jones Rodriguez

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Kristin E. Haule

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Attorneys for Defendant

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PeopleConnect, Inc. d/b/a Intelius

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