

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA,
SOUTHERN DIVISION**

**AMERICAN INCOME LIFE)
INSURANCE COMPANY, a)
Corporation, and SCOTT)
SONNENBERG,)**

Plaintiffs,)

vs.)

CASE NUMBER

**GOOGLE, INC., a corporation)
et al.,)**

Defendants.)

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Google Inc. (“Google”), by and through its undersigned counsel, hereby removes this action from the Circuit Court of Jefferson County, Alabama, Bessemer Division, to the United States District Court for the Northern District of Alabama, Southern Division. In support of this notice, Google states as follows:

I. THE STATE COURT ACTION.

1. On September 23, 2011, Plaintiffs filed a civil action in the Circuit Court of Jefferson County, Alabama, Bessemer Division, styled as *American Income Life Insurance Company and Scott Sonnenberg v. Google, Inc., et al.*, Case No. CV-2011-900566.00. Google was served with the Complaint on November 7,

2011. A true and correct copy of the Complaint is attached hereto as part of Exhibit A.

2. The Complaint alleges that Google is engaging in unlawful business practices in Alabama based on certain banners and content that appear on computer terminals in Alabama. (Exh. A, Compl., ¶¶ 3, 5, 13).

3. As set forth more fully below, this case is properly removed to the United States District Court for the Northern District of Alabama, pursuant to 28 U.S.C. § 1441, because the procedural requirements for removal are satisfied: there is complete diversity of citizenship between Plaintiffs and the Defendant; the amount in controversy exceeds \$75,000, exclusive of interest and costs; and this Notice of Removal has been filed within thirty days after service of the summons and/or complaint upon Defendant Google.

4. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all summons, process, pleadings, and orders filed in the State Court Action are attached as Exhibit A.

II. REMOVAL IS PROPER BECAUSE THIS COURT HAS SUBJECT MATTER JURISDICTION PURSUANT TO 28 U.S.C. §§ 1332 AND 1441.

5. Federal jurisdiction exists based upon diversity of citizenship pursuant to 28 U.S.C. § 1332 because this is a civil action between citizens of different

states, and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs. *See* 28 U.S.C. § 1441.

A. Complete Diversity of Citizenship Exists.

6. Plaintiff American Income Life Insurance Company is alleged to be an Indiana corporation, with its principal place of business in Waco, Texas. (Exh. A, Compl., ¶ 1).

7. Plaintiff Scott Sonnenberg is, upon information and belief, an Alabama resident. (*See* Exh. A, Compl., ¶ 2).

8. Google is the only named Defendant. Google is a Delaware corporation with a principal place of business in California.

9. The Complaint purports to sue fictitious defendants. “For purposes of removal under [§ 1441], the citizenship of defendants sued under fictitious names shall be disregarded.” 28 U.S.C. § 1441(a).

B. The Amount in Controversy Exceeds \$75,000.

10. Although Plaintiffs state they are seeking monetary damages in a sum of less than \$75,000, Plaintiffs also are seeking injunctive relief.

11. “The value of injunctive relief for amount in controversy purposes is the ‘monetary value of the object to the litigation that would flow to the plaintiffs if the injunction were granted.’” *Wilson v. Spectera, Inc.*, 2011 U.S. Dist. LEXIS 28004 (M.D. Ga. Mar. 18, 2011), *citing Leonard v. Enterprise Rent A Car*, 279

F.3d 967, 973 (11th Cir. 2002). “In other words, the value of the requested injunctive relief is the monetary value of the benefit that would flow to the plaintiff if the injunction were granted.” *Cohen v. Office Depot, Inc.*, 204 F.3d 1069, 1077 (11th Cir. 2000). “In the Eleventh Circuit, the value of the object of the litigation is measured solely from the plaintiff’s perspective; the value to the defendant is irrelevant.” *Mapp v. Deutsche Bank Nat'l Trust Co.*, 2009 WL 3664118, *2 (M.D. Ala. Oct. 28, 2009).

12. Plaintiffs’ Complaint alleges that Google is engaging in business in Alabama – specifically, the display of certain content on computer terminals in Alabama – that violates the Alabama Deceptive Trade Practices Act. (*See* Exh. A, Compl., ¶¶ 5, 13). Plaintiffs allege that Google’s unlawful business practices are causing Plaintiffs to sustain damages “exceed[ing] millions of dollars . . .” (*See* Exh. A, Compl., 17th paragraph, which is erroneously numbered as paragraph “1” on page 5).

13. Plaintiffs’ request for injunctive relief asks for an order enjoining Google from engaging in any business in Alabama. (*See* Exh. A, Compl., p. 6, ¶ C).

14. Thus, from the Plaintiffs’ perspective, the value of the benefit that would flow to the Plaintiffs if the requested injunctive relief is granted exceeds “millions of dollars,” and therefore the value of the requested injunctive relief for

amount in controversy purposes is far in excess of \$75,000, exclusive of interest and costs.

III. REMOVAL TO THIS COURT IS PROPER

15. The Circuit Court of Jefferson County, Alabama, Bessemer Division, is located within the judicial district of the United States District Court for the Northern District of Alabama, Southern Division. 28 U.S.C. § 81. Thus, venue is proper in this Court because it is the “district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

IV. NOTICE GIVEN

16. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon counsel for Plaintiffs, and a copy is being filed with the Clerk of the Court for the Circuit Court of Jefferson County, Bessemer Division.

Dated: December 7, 2011

Respectfully Submitted,

James P. Pewitt (PEW001)
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Daniel J. Martin (MAR197)
Bar Number: ASB-8327-D65M

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CERTIFICATE OF SERVICE

This will certify that a copy of the foregoing document was served upon all counsel of record by placing the same in the U. S. Mail, properly addressed and sufficient postage affixed thereto, this 7th day of December, 2011, as follows:

William J. Baxley, Esq.
Joel E. Dillard, Esq.
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Of Counsel