

1 CLARKE B. HOLLAND (SBN 76805); cholland@plawp.com
 2 LISA L. KIRK (SBN 130272); lkirk@plawp.com
 3 LHB PACIFIC LAW PARTNERS, LLP
 5858 Horton Street, Suite 370
 Emeryville, CA 94608
 Tel: (510) 841-7777
 Fax; (510) 841-7776

FILED
 2011 MAY 24 P 2:51
 RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 N.D. CALIFORNIA

Paid
 NP
 (1)

5 Attorneys for Defendants
 OREGON MUTUAL INSURANCE COMPANY

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

11 ARVIND and ALKA ARGAWAL,
 12 Plaintiffs,
 13 v.
 14 OREGON MUTUAL INSURANCE
 COMPANY, and DOES 1 through 30,
 15 inclusive,
 16 Defendant.

Case No.:
 CV 11-02524 HRL
 NOTICE OF REMOVAL OF ACTION
 UNDER 28 U.S.C. § 1441(b) (DIVERSITY)
 TO FEDERAL COURT
 JURY TRIAL DEMANDED

18 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

19 PLEASE TAKE NOTICE that Defendant Oregon Mutual Insurance Company ("Oregon
 20 Mutual") hereby removes to this Court the state court action described below.

21 1. On March 21, 2011, an action was commenced against defendant Oregon Mutual
 22 Insurance Company in the Superior Court of the State of California in and for the County of
 23 Santa Clara, entitled *Arvind and Alka Argawal v. Oregon Mutual Insurance Company, and Does*
 24 *1 through 30*, as Case Number 111CV196942. A copy of the Complaint is attached hereto as
 25 Exhibit "A."

26 2. The first date upon which defendant Oregon Mutual received a copy of the
 27 Complaint was on May 13, 2011, when Oregon Mutual was served with a copy of the Complaint
 28 and a Summons from the state court. Oregon Mutual has not filed an Answer to the Complaint.

LHB Pacific Law Partners, LLP
 5858 Horton Street, Suite 370
 Emeryville, CA 94608
 (510) 841-7777 - Facsimile (510) 841-7776

1 A copy of the Summons is attached hereto as Exhibit "B."

2 3. Pursuant to 28 USC § 1446(a), a copy of all pleadings, process, and orders served
3 on Oregon Mutual in this action is attached hereto as Exhibit "C."

4 4. **Jurisdiction.** This action is a civil action of which this Court has original
5 jurisdiction under 28 U.S.C. § 1332, and is one which may be removed to this Court by
6 defendant pursuant to the provision of 28 U.S.C. § 1441(b) in that it is a civil action between
7 citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive
8 of interest and costs, because plaintiff's state court Complaint seeks damages of at least
9 \$730,000. See Plaintiff's Statement of Damages (attached hereto as Exhibit C, last two pages of
10 exhibit).

11 5. **Intradistrict Assignment.** This action should be assigned to this Court's San Jose
12 Division pursuant to L.R. 3-12(d), because the original state court action was filed in Santa Clara
13 County. (See Complaint.)

14 6. **Citizenship.** Completed diversity of citizenship exists. Plaintiffs Arvind and
15 Alka Argawal were at the time of the filing of this action, and still are, citizens of the State of
16 California. (See Complaint, ¶1, p. 1:19-20.) Defendant Oregon Mutual Insurance Company
17 was, at the time of the filing of this action, and still is, a citizen of the State of Oregon,
18 incorporated under the laws of Oregon, having its principal place of business in McMinnville,
19 Oregon. Oregon Mutual Insurance Company is the only named defendant in this action. No
20 defendant is a citizen of California, where the action is currently pending. The naming of
21 fictitious defendants in the state court Complaint, namely Does 1 through 30, is disregarded
22 when determining the propriety of removal. 28 USC §1441(a).

23 7. This Notice of Removal is timely under 28 U.S.C. Section 1446(b) because it is
24 filed within thirty (30) days of the date on which Oregon Mutual was first served with the state
25 court Complaint.

26 8. A notice to adverse parties of removal of the state court Complaint has been or is
27 being filed with the clerk of the Santa Clara Superior Court, and copies of said notice and this
28 Notice of Removal have been or are being served on Plaintiffs, in accordance with 28 U.S.C.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Section 1446(d).

DATED: May 24, 2011

LHB PACIFIC LAW PARTNERS, LLP

By: 

Lisa L. Kirk
Attorneys for Defendant OREGON MUTUAL
INSURANCE COMPANY

DEMAND FOR JURY TRIAL

Defendant Oregon Mutual Insurance Company hereby demands a jury trial as provided
by Rule 38(a) of the Federal Rules of Civil Procedure.

DATED: May 24, 2011

LHB PACIFIC LAW PARTNERS, LLP

By: 

Lisa L. Kirk
Attorneys for Defendant OREGON MUTUAL
INSURANCE COMPANY

LHB Pacific Law Partners, LLP
5858 Horton Street, Suite 370
Emeryville, CA 94608
(510) 841-7777 - Facsimile (510) 841-7776