

JUDGE BAER CV 9004

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
ELIZABETH SEMPLE,

Plaintiff,

-against-

EYEBLASTER, INC., GAL TRIFON,  
LEHMAN BROTHERS, INC., and  
DEUTSCHE BANK SECURITIES INC.,

Defendants.  
----- X

ECF CASE (HAB) (THK)

9004  
08 Civ. (HA)

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**DEFENDANT DEUTSCHE BANK SECURITIES INC.'S NOTICE OF REMOVAL**

**PLEASE TAKE NOTICE** that defendant Deutsche Bank Securities Inc. ("DBSI") hereby removes the state court action described below to this Court pursuant to 28 U.S.C. § 1441 and Local Civil Rule 81.1.

1. On September 15, 2008, plaintiff Elizabeth Semple ("Semple") filed a copy of a summons and verified complaint (the "Summons and Verified Complaint") with the Supreme Court of the State of New York, County of New York for an action captioned, Elizabeth Semple v. Eyeblander, Inc., et al., Index No. 650339/08 (the "State Court Action"). The Summons and Verified Complaint are attached to this Notice as Exhibit A.

2. On September 18, 2008, DBSI received a copy of the Summons and Verified Complaint by personal service on an authorized agent in the Office of the Secretary of State, of the State of New York.

3. Pursuant to 28 U.S. § 1446(b), this Notice of Removal is timely because it is filed within thirty days from DBSI's receipt of the Summons and Verified Complaint.

4. For this action, complete diversity of citizenship exists among the parties under 28 U.S. § 1332(a)(2). Upon information and belief, plaintiff Semple is a citizen of the State of New Jersey and resides in New Jersey. Complaint ¶ 2. Semple's precise address is unknown at this time. Defendant Gal Trifon ("Trifon") is the chief executive office of Eyeblander Inc. Complaint ¶ 4. Upon information and belief, Trifon is a citizen of the State of New York and resides in New York. Trifon's precise address is unknown at this time.

5. Defendant Eyeblander, Inc. ("Eyeblander") is a Delaware corporation with its principal place of business in New York. Complaint ¶ 3. Thus, Eyeblander is considered a citizen of Delaware and/or New York. Defendant Lehman Brothers, Inc ("Lehman") is a Delaware Corporation with its principal place of business in New York. Complaint ¶ 5. Thus, Lehman is considered a citizen of Delaware and/or New York. DBSI is a Delaware corporation with its principal place of business in New York. Complaint ¶ 6. Thus, DBSI is considered a citizen of Delaware and/or New York.

6. In the State Court Action, Eyeblander was served a copy of the Summons and Verified Complaint on October 1, 2008; Trifon was served a copy of the Summons and Verified Complaint on October 1, 2008; Lehman was served a copy of the Summons and Verified Complaint on September 19, 2008; and DBSI was served a copy of the Summons and Verified Complaint on September 18, 2008.

7. Based on the allegations of the Verified Complaint, the plaintiff Semple is seeking damages in the amount in excess of \$450,000. The amount in controversy in this action, therefore, exceeds the \$75,000 jurisdictional amount.

8. Pursuant to 28 U.S. § 1446(a), venue in this District is proper because this is the District within which the State Court Action is pending.

9. Pursuant to 28 U.S. § 1446(a) and Local Civil Rule 81.1, attached hereto as Exhibit B is a copy of all process, pleadings, and orders served upon the defendants in the State Court Action.

10. Pursuant to 28 U.S. § 1446(d), defendant has contemporaneously filed a copy of this Notice with the Supreme Court of the State of New York, New York County and served a copy upon all other parties to the State Court Action.

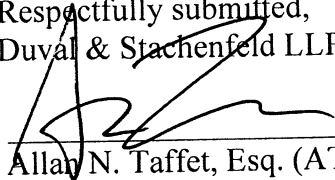
11. Pursuant to 28 U.S. § 1914, defendant has included with this Notice of Removal a filing fee of \$350.

WHEREFORE, defendant respectfully requests that the State Court Action be removed to this Court for all further proceedings and disposition.

Dated: New York, New York  
October 20, 2008

Respectfully submitted,  
Duval & Stachenfeld LLP

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