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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

AVVO, INC., a Washington corporation, and
MARK BRITTON, an individual,

Plaintiffs,

v.

WESTCHESTER FIRE INSURANCE
COMPANY, a New York Corporation,

Defendant.

Case No.:

(KING COUNTY SUPERIOR COURT
CAUSE NO. 08-2-34053-8 SEA)

DEFENDANT'S NOTICE OF REMOVAL
TO FEDERAL COURT

TO: THE CLERK OF THE UNITED STATES DISTRICT COURT IN AND FOR THE
WESTERN DISTRICT OF WASHINGTON

PLEASE TAKE NOTICE THAT Defendant in the above-titled matter hereby removes
to this Court the state court action described below.

Defendant Westchester Fire Insurance Company ("Defendant"), hereby gives notice
that this action is removed to the United States District Court for the Western District of
Washington at Seattle from the Superior Court of Washington, in and for King County.

Pursuant to 28 U.S.C. § 1441, Defendant further states as follows:

State Court Action: Westchester Fire Insurance Company is named as the defendant
in a civil action filed in the Superior Court of Washington, in and for King County, styled

1 *Avvo, Inc. and Mark Britton v. Westchester Fire Insurance Company*, Cause No. 08-2-34053-
2 8 SEA (the “state court action”).

3 **Commencement of State Court Action:** The state court action was commenced
4 when plaintiffs’ Summons and Complaint were filed with the clerk of the King County
5 Superior Court on October 3, 2008. Service of the Summons and Complaint was effected on
6 Defendant via the Washington State Insurance Commissioner on or about **October 1, 2008**.
7 This Notice of Removal is timely, in that it is being filed within thirty (30) days of receipt of
8 service of the Summons and Complaint by Defendant. Defendant has not filed pleadings in
9 this case in the state court action, other than a Notice of Appearance.

10 **Record in State Court:** The following pleadings, as are available in the file of the
11 state court action, encompass all of the pleadings received or filed by Defendant in this action
12 up to the present time.

13 Summons

14 Complaint

15 Order Setting Civil Case Schedule

16 Case Information Cover Sheet

17 Notice of Appearance on Behalf of Defendant

18 Insurance Commissioner’s Certificate of Service

19 Amended Affidavit of Service

20 The Complaint is attached hereto as Exhibit A. A Copy of the Insurance Commissioner’s
21 Certificate of Service is attached as Exhibit B to this Notice. A complete copy of all
22 additional documents filed in the state court proceeding will be submitted with a subsequent
23 declaration of counsel pursuant to CR 101 of the Local Rules of the Western District of
24 Washington.

25 **Diversity of Citizenship is Basis for Federal Court Jurisdiction:** This dispute
26 between Plaintiffs and Defendant is a controversy between citizens of different states.

1 a. Plaintiff Avvo, Inc. is a Washington corporation with its principal place
2 of business in Seattle, Washington. Plaintiff Mark Britton is an individual who is a citizen of
3 King County, Washington.

4 b. Defendant Westchester Fire Insurance Company is, and at all times
5 material has been, incorporated under the laws of New York with its principal place of
6 business in Roswell, Georgia.

7 **Nature and Description of Case:** This action seeks damages and attorneys' fees and
8 costs, among other relief, for alleged breach of contract, bad faith, violation of the Consumer
9 Protection Act and violation of the Insurance Fair Conduct Act, in connection with
10 Defendant's response to a claim made under an insurance policy Defendant issued to Plaintiff
11 Avvo, Inc.

12 **Amount in Controversy:** Plaintiffs seek to recover an amount in excess of \$75,000.
13 The Complaint states that Plaintiffs seek, inter alia, judgment against Defendant for fees, costs
14 and expenses Plaintiffs incurred in the defense of a prior lawsuit against Plaintiffs. Plaintiffs'
15 counsel has informed counsel for Defendant that Plaintiff Avvo, Inc. claims to have incurred
16 over \$134,000 in costs and legal expenses for the defense of that lawsuit. *See* Declaration of
17 Benjamin J. Stone in Support of Defendant's Notice of Removal. Plaintiffs also seek treble
18 damages, legal fees in this case, and "such further relief as the court deems equitable and
19 just." (Complaint at pg. 7-8). Taking all these factors into consideration, Defendant
20 reasonably believes that the Plaintiff seeks damages and/or other recoveries counting toward
21 the jurisdictional minimum, in excess of \$75,000.

22 **Applicable Statutes:** This is a civil action over which this Court has original
23 jurisdiction pursuant to 28 U.S.C. § 1332, and the action is removable to this Court pursuant
24 to 28 U.S.C. § 1441(a) and 28 U.S.C. § 1446.

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on October 30, 2008, I electronically filed the following
3 documents with the Clerk of the Court using the CM/ECF system which will send notification
4 of such filing to the following: Tricia S. Boerger, Esq., Savitt & Bruce, LLP, 1325 Fourth
5 Avenue, Suite 1410, Seattle, WA 98101-2509.

6 (KING COUNTY SUPERIOR COURT CAUSE NO. 08-2-34053-8 SEA)
7 DEFENDANT'S NOTICE OF REMOVAL TO FEDERAL COURT

8 DATED this 30th day of October, 2008.

9 COZEN O'CONNOR

10
11 By: /s/ Lisa Heusler, Legal Assistant to
12 Benjamin J. Stone, WSBA No. 33436
13 COZEN O'CONNOR
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15 Seattle, Washington 98101
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