

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
NORTHERN DIVISION**

DAN CHEYFITZ,)	Case No.
)	
Plaintiff,)	JUDGE
)	
vs.)	
)	
VALUECLICK, INC.,)	NOTICE OF REMOVAL
)	
VC E-COMMERCE SOLUTIONS,)	
INC.)	
)	
HI-SPEED MEDIA, INC.)	
)	
Defendants.)	

Now comes Defendants Value-Click, Inc., VC E-Commerce Solutions, Inc., and Hi-Speed Media, Inc., by counsel, and pursuant to 28 U.S.C. §1441, hereby files this Notice of Removal of this action from the Court of Common Pleas, Cuyahoga County, Ohio to the United States District Court for the Northern District of Ohio, Northern Division. In support thereof, this removing Defendant states as follows:

1. That there was commenced on January 4, 2008 and is now pending in the Court of Common Pleas, Cuyahoga County, Ohio, an action docketed as Case Number CV 08 646237 in which Dan Cheyfitz is the named Plaintiff and Value-Click, Inc., Hi-Speed Media, Inc., and Hi-Speed Media, Inc., are the named Defendants. See, *Plaintiff's Complaint, attached as Exhibit A.*

2. That this is a civil action at common law in which the Plaintiff alleges that Defendants committed numerous unfair and deceptive acts, in violation of Ohio Revised Code 1345.01, *et seq*, commonly known as the Ohio Consumer Sales Practice Act. *Id.*

3. Plaintiff seeks to represent a class identified as “All recipients of the emails, spam or computer transmissions located in the State of Ohio.” *Id.*

4. Plaintiff Complaint prays for damages in an amount “in excess of \$25,000, not to exceed \$75,000, for his individual claims and for Class Claims in an amount not to exceed \$4.9 million, plus interest, attorney’s fees and the costs...” *Id.*

5. Under Ohio law, a Plaintiff is not limited to recover those damages prayed for in the Complaint. *Ohio Rules of Civil Procedure 54.*

6. Reasonable attorney’s fees are recoverable as damages based upon a discretionary find involving the happening of specific circumstances. *O.R.C. 1345.09*

7. As this case involves allegations that Defendants violated a consumer protection statute that provides for a potential award of attorneys fees, attorneys fees are properly considered in determining whether the plaintiff meets the jurisdictional threshold. *Williamson v. Aetna Life Ins. Co.*, 481 F.3d 369, 375 (6th Cir. 2007) (quoting *Rogers v. Wal-Mart Stores, Inc.*, 230 F.3d 868, 871 (6th Cir. 2000))

8. Due to the nature of the allegations and the damages sought, the potential verdict, exclusive of costs and interests, is well in excess of Seventy-Five Thousand Dollars (\$75,000). Plaintiff Complaint seeks damages up to \$75,000, in addition to attorney’s fees. *See, Plaintiff’s Complaint.* Taking into consideration the fact that even an award of attorney’s fees of only One Dollar (\$1.00) would place Plaintiff in excess of the amount in controversy requirement, the jurisdictional requirements are met.

9. That this action involves a controversy between citizens of different states; (a) that based upon information and belief, the Plaintiff is and was a resident and citizen of the state of Ohio at the time of the accident in question; (b) that Defendants Value-

Click, Inc., Hi-Speed Media, Inc., and Hi-Speed Media, Inc., have its principal places of business in Westlake Village, California.

10. That this action is one to which the District Court of the United States has been given original jurisdiction under 28 U.S.C. §1332.

11. That a true and correct copy of this Notice of Removal will be filed with the Clerk of Courts for the Court of Common Pleas, Cuyahoga County, Ohio, and with the Clerk of Courts of the United States District Court, Northern District of Ohio, Northern Division.

12. That there is filed herewith as Exhibit "A" and by reference made a part hereof, a true and correct copy of the Complaint that was served upon the Defendant in this action. A copy of the Exhibits contained within Plaintiff's Complaint are not attached as they are voluminous in nature.

13. That this Notice of Removal is timely filed in this case within thirty (30) days after service of Summons and Complaint on January 16, 2008.

14. No Defendant who has been served is a citizen of the State of Ohio.

15. That counsel's verification for authority to remove this action is attached hereto as Exhibit "B".

16. That written notice of the filing of this Notice of Removal will be given to all parties as required by law.

WHEREFORE, this action is properly removed from the Court of Common Pleas, Cuyahoga County, Ohio, to the United States District Court, Northern District of Ohio, Northern Division, for all further proceedings.

Respectfully submitted,

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*Attorneys for Defendants,
ValueClick, Inc., VC E-Commerce Solutions,
Inc., and Hi-Speed Media, Inc.*

VERIFICATION

STATE OF OHIO)
)
COUNTY OF CUYAHOGA) **ss.**

Lawrence A. Sutter, being first duly sworn according to law, deposes and says that he is Counsel for Defendants Value-Click, Inc., Hi-Speed Media, Inc., and Hi-Speed Media, Inc., will be involved in the case of Dan Cheyfitz v. Value-Click, et al. I have been authorized to remove this case on behalf of Defendants Value-Click, Inc., Hi-Speed Media, Inc., and Hi-Speed Media, Inc.,. The foregoing Notice to Court of Removal is true and accurate.

Lawrence A. Sutter

Sworn to and subscribed before me, a Notary public in and for said County and State of Ohio, this ____day of January, 2008.

NOTARY PUBLIC

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of January, 2008 a copy of Notice of Removal was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's system.

Joseph R. Compoli, Jr., Esq. Attorney for Plaintiff
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