

NOTICE OF REMOVAL

Defendant EATON CORPORATION (“Eaton”), by and through its counsel, Fukunaga Matayoshi Hershey & Ching, LLP, hereby files this Notice of Removal pursuant to 28 U.S.C. § 1332, 28 U.S.C. § 1441 and 28 U.S.C. § 1446 for the removal of the above-entitled action from the Circuit Court of the Fifth Circuit, State of Hawaii to the United States District Court for the District of Hawaii. As grounds for removal, Eaton states the following:

1. On April 9, 2014, Plaintiffs WESTCHESTER SURPLUS LINES INSURANCE COMPANY and CONTINENTAL CASUALTY COMPANY (collectively, “Plaintiffs”) filed a Complaint captioned *Westchester Surplus Lines Insurance Company, etc., et al. v. Eaton Corporation*, in the Circuit Court of the Fifth Circuit, State of Hawaii, under Civil No. 14-1-0075 (RV). In accordance with 28 U.S.C. § 1446(a), attached hereto as Exhibit A is a true and correct copy of Plaintiffs’ Complaint for Damages; Summons.

2. This action stems from a subrogation claim to recover property damage and losses that were allegedly caused by a fire that occurred on or about May 11, 2012 at the Hanapepe Valley Pump Station #3 in Kalaheo, Hawaii on the island of Kauai.

3. The United States District Court for the District of Hawaii has original jurisdiction over this action by reason of complete diversity of citizenship between the parties under 28 U.S.C. § 1332, and this action is removable pursuant to 28 U.S.C. §§ 1441(b) and 1446(b).

4. Upon information and belief, Plaintiff WESTCHESTER SURPLUS LINES INSURANCE COMPANY is and was at all times relevant to this action, a Georgia corporation with its principal place of business in Georgia, and doing business in the State of Hawaii. (*See* Ex. A, Complaint at ¶ 2).

5. Upon information and belief, Plaintiff CONTINENTAL CASUALTY COMPANY is and was at all times relevant to this action, an Illinois corporation with its principal place of business in Illinois, and doing business in the State of Hawaii. (*See* Ex. A, Complaint at ¶ 3).

6. Eaton is, and at the time of the filing of the Complaint, was an Ohio corporation with its principal place of business in Cleveland. (*See* Ex. B, Declaration of Katherine M. Wall, dated May 13, 2014, at ¶ 5).

7. The citizenship of fictitious defendants is ignored for purposes of removal. 28 U.S.C. § 1441(b)(1); *Soliman v. Philip Morris Inc.*, 311 F.3d 966, 971 (9th Cir. 2002) (holding that the inclusion of Doe defendants in a complaint did not defeat diversity jurisdiction).

8. Pursuant to 28 U.S.C. § 1332, as amended, complete diversity of citizenship therefore exists as between all parties in this case.

9. Eaton, the only named defendant in the action, consents to removal of this case.

10. According to the allegations of the Complaint, Plaintiff Westchester Surplus Lines Insurance Company purportedly paid approximately \$1,374,394 and Plaintiff Continental Casualty Company purportedly paid approximately \$71,597 in satisfaction of an insurance property damage claim submitted by Plaintiffs' insured, Alexander & Baldwin, Inc. and its subsidiary, McBryde Resources, Inc. (*See* Ex. A, Complaint at ¶¶ 18-19, Prayer for Relief). Plaintiffs seek *inter alia* the amounts paid to their insured under the policies, as well as unspecified sums for property damage and losses to the insured, such that the amount in controversy, exclusive of interest and costs, exceeds \$75,000.00.

11. Plaintiffs' Complaint was served on Eaton on April 16, 2014. (*See* Ex. B, Declaration of Katherine M. Wall, dated May 13, 2014, at ¶ 4).

12. Service of the Complaint on Eaton on April 16, 2014 was the first date when Eaton received a copy of the Plaintiffs' Complaint in this case.

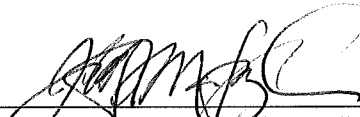
13. That thirty (30) days have not expired since Eaton was served with a copy of the Complaint in this action.

14. Accordingly, this removal is timely pursuant to 28 U.S.C. § 1446(b).

15. Pursuant to 28 U.S.C. § 1446(d), Eaton promptly will provide written notice of removal of the action to Plaintiffs and will promptly file a copy of this Notice of Removal with the Clerk of the Circuit Court of the Fifth Circuit, State of Hawaii.

WHEREFORE, Defendant EATON CORPORATION pray that the above-entitled action be removed from the Circuit Court of the Fifth Circuit, State of Hawaii to the United States District Court for the District of Hawaii.

Dated: Honolulu, Hawaii, May 13, 2014.



JEROLD T. MATAYOSHI
BONITA Y.M. CHANG

Attorneys for Defendant
EATON CORPORATION