IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LANA L. STARKEY, Plaintiff, vs. AMBER ENTERPRISES, INC. d/b/a AMBER PHARMACY, a Corporation, HY-VEE, INC, a Corporation, and MIKE AGOSTINO, Individually, Defendants.	))))))))))))	CASE NO. _____ **NOTICE OF REMOVAL WITH JURY TRIAL REQUESTED IN OMAHA, NEBRASKA**

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA:

Defendants Amber Enterprises, Inc. d/b/a Amber Pharmacy, a Corporation, Hy-Vee, Inc., a Corporation, and Mike Agostino, Individually, ("Defendants"), pursuant to 28 U.S.C. §§ 1331, 1367, 1441 and 1446, hereby give notice of removal of this action to the United States District Court for District of Nebraska. As grounds for this removal, the Defendants state as follows:

FACTUAL BACKGROUND

1. On or about December 14, 2016, Plaintiff filed her Complaint against Defendants in the District Court of Douglas County, Nebraska. A Civil Summons issued by the District Court of Douglas County and was served on Defendant Amber Enterprises, Inc. d/b/a Amber Pharmacy and Defendant Hy-Vee, Inc. on December 30, 2016. The return of service provided by counsel for the Plaintiff to counsel for the Defendant shows Defendant Mike Agostino was served on or about January 19, 2017. As required by 28 U.S.C. § 1446(a), attached hereto collectively as "Exhibit A" and incorporated herein by this reference are copies of the Complaint, Praecipes, and Summons served upon Defendants which constitute all of the process,

pleadings, and orders served upon Defendants in this case to date. No Service Returns have been filed by the Plaintiff as of the time of this filing. Attached hereto collectively as "Exhibit B" and incorporated herein by this reference are copies of the Returns of Service provided by counsel for the Plaintiff to counsel for the Defendant, but which have not yet been filed with the court.

2. In her Complaint, Plaintiff is seeking redress for violations of the rights guaranteed by the Nebraska Fair Employment Practices Act, Neb. Rev. Stat. §§48-1101- to 48-1126, as amended, Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, as amended, the Nebraska Age Discrimination in Employment Act, Neb. Rev. Stat. §§48-1001 to 48-1010, the Age Discrimination in Employment Act of 1967, 29 U.S.C. §621, et seq., the Consolidated Omnibus Budget Reconciliation Act ("COBRA"), 29 U.S.C. §1166(a)(2), et seq., and the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §1001 et seq., for damages alleged to have been suffered by the Plaintiff as a result of Defendants alleged unlawful discrimination, whistleblowing, retaliation, and constructive discharge.

THIS COURT HAS SUBJECT MATTER JURISDICTION UNDER § 1331 and § 1367

3. This case is properly removable because the Complaint could have originally been filed in this Court pursuant to 28 U.S.C. §1331, as it involves a question of federal law as the Plaintiff alleges that the Defendant violated Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, as amended, the Age Discrimination in Employment Act of 1967, 29 U.S.C. §621, et seq., the Consolidated Omnibus Budget Reconciliation Act ("COBRA"), 29 U.S.C. §1166(a)(2), et seq., and the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §1001 et seq., Pursuant to 28 U.S.C. §1367, the Court has jurisdiction of the claims the Plaintiff alleges under the Nebraska Fair Employment Practices Act and the Nebraska Age Discrimination in Employment Act because those claims are so related to the claims alleged under federal law such that they form part of the same case or controversy.

4. Defendant Amber Enterprises, Inc. d/b/a Amber Pharmacy is a Nebraska corporation with its principal place of business in Omaha, Nebraska.

5. Defendant Hy-Vee, Inc. is an Iowa corporation registered as a foreign corporation in Nebraska and does business in Omaha, Nebraska.

6. Defendant Agostino is a resident of Omaha, Nebraska.

7. Plaintiff is a resident of Omaha, Nebraska.

A. Removal to this District is Proper

8. Pursuant to the provisions of 28 U.S.C. § 1441(a), the United States District Court for the District of Nebraska is the federal district court embracing the place where the State Court Action is pending.

B. The Petition for Removal is Timely

9. This Notice is timely filed within 30 days of service of Plaintiff's Complaint on Defendants. 28 U.S.C. §1446(b). Defendant Amber Enterprises, Inc. d/b/a Amber Pharmacy and Defendant Hy-Vee, Inc. were served on December 30, 2016. The return of service provided by counsel for the Plaintiff to counsel for the Defendant shows Defendant Mike Agostino was served on or about January 19, 2017. Less than 30 days have elapsed since the first defendant was served.

D. Notice of Petition of Removal

10. Defendants will promptly provide Plaintiff with written notice of the filing of this Notice of Removal and will promptly file a copy of this Notice with the Clerk of the District Court of Douglas County.

E. Reservation of Rights

11. Defendants reserve all rights, including defenses, and objections to this action, including defenses and objections as to the appropriate forum, jurisdiction, and service. The filing of this notice of removal is subject to and does not waive, any such defenses and objections. Defendants further reserve the right to amend or supplement this notice of removal.

JURY REQUEST AND PLACE OF TRIAL

12. The Defendants request that this action be tried by jury, and that the trial be held in Omaha, Nebraska.

WHEREFORE, Defendants, having removed the case now pending in the District Court of Douglas County, Nebraska, No. CI 16 10363, respectfully requests that this case proceed with adjudication before this Honorable Court as though Plaintiff had originally filed it in this Court.

Dated this 27th day of January, 2017.

AMBER ENTERPRISES, INC. d/b/a AMBER PHARMACY, a Corporation, HY-VEE, INC, a Corporation, and MIKE AGOSTINO, Individually, Defendants.

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By: /s/ Torrey J. Gerdes
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CERTIFICATE OF SERVICE

I hereby certify that on January 27, 2017, I electronically filed the foregoing Notice of Removal with Jury Trial Requested in Omaha, Nebraska with the Clerk of the Court using CM/ECF system. I also hereby certify that on January 27, 2017, a true and correct copy of the above foregoing document was sent via email to the following:

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