

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

Dustin Hice,

Plaintiff,

-against-

Don Lemon

Defendant.

Docket No. \_\_\_\_\_

**NOTICE OF REMOVAL**

**Jury Trial Demanded**

PLEASE TAKE NOTICE that, PURSUANT TO 28 U.S.C. §§ 1441 *et seq.*, Don Lemon, named herein as Defendant, through his attorneys, Pierce Bainbridge Beck Price & Hecht LLP, hereby remove the New York State Supreme Court action described below to the United States District Court for the Eastern District of New York on the following grounds:

1. On August 11, 2019, Dustin Hice, the plaintiff named in the caption above, commenced an action in the Supreme Court for the State of New York, County of Suffolk, entitled *Dustin Hice v. Don Lemon*, 615507/2019 (“State Court Action”). The complaint in this action (“Complaint” or “Compl.”) brings causes of action arising from an alleged assault and battery of Plaintiff while he was in Sag Harbor, New York. A copy of the summons (“Summons”) and Complaint in this action is annexed hereto as Exhibit 1. Plaintiff has not served Defendant with the Complaint or Summons, but Plaintiff became aware of the Summons and Complaint on August 11, 2019 when Plaintiff electronically filed these documents on NYSCEF.

2. This Notice of Removal is being filed within 30 days after receipt by Defendant of the copy of the initial pleading setting forth the claim for relief upon which the action is based. Thus, this Notice of Removal is timely filed in this Court.

3. The State Court Action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1332(a) (diversity) and which may be removed to this Court pursuant to the provisions of 28 U.S.C. §§1441 *et seq.*

4. Plaintiff Dustin Hice is an individual. On information and belief, when the Summons and Complaint were filed, Mr. Hice was, and still is, a citizen and resident of the State of Florida. On information and belief, when the Summons and Complaint were filed, Mr. Hice was, and still is, domiciled solely in Florida. On information and belief, when the Summons and Complaint were filed, Mr. Hice was not, and still is not, a citizen of any State other than Florida or a citizen of any country other than the United States. In the Complaint, Mr. Hice states: “At all times relevant to this Complaint, Plaintiff was and is a male citizen of the United States who resides in the State of Florida.” (Compl. ¶ 3.)

5. Defendant Don Lemon is an individual. When the Summons and Complaint were filed, Mr. Lemon was, and still is, a citizen and resident of the State of New York. When the Summons and Complaint were filed, Mr. Lemon was, and still is, domiciled solely in New York. On information and belief, when the Summons and Complaint were filed, Mr. Lemon was not, and still is not, a citizen of any State other than New York or a citizen of any country other than the United States.

6. In his Complaint, Plaintiff seeks extensive damages against Defendant for “reimbursement of and prepayment for all of Plaintiff’s expenses including expenses incurred as

a consequence of the assault; damages for deprivations of the access to career opportunities; and damages for past, present, and future emotional pain and suffering, ongoing and severe mental anguish, and loss of past, present, and future earnings and enjoyment of life in an amount to be determined at trial.” (Compl. at 8.) Given the wide-ranging damages Plaintiff requests and the severity of Plaintiff’s alleged emotional distress,<sup>1</sup> the amount in controversy is above \$75,000 in this action.

WHEREFORE, Defendant Don Lemon prays that this action be removed to the United States District Court for the Eastern District of New York.

Dated: August 13, 2019

Respectfully Submitted,



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<sup>1</sup> Plaintiff alleges that his emotional distress was severe enough to result in “sickness” and “mental harm,” (Compl. ¶¶ 41, 49) and that “Plaintiff found himself withdrawn from friends and family, suffered feelings of shame, humiliation, anxiety, anger, and guilt. Plaintiff found himself unable to sleep and at times, and suffered from suicidal ideations.” (Compl. ¶ 28.)