

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF FAIRFAX

BOARD OF SUPERVISORS,)
FAIRFAX COUNTY, VIRGINIA,)
)
Plaintiff,)
)
v.)
)
KRISPY KREME)
DOUGHNUT CORPORATION,)
)
Defendant.)

Civil Action No. CL 2009-6793

2009 JUN 11 PM 4: 00
 CLERK OF COURT
 FAIRFAX, VA

NOTICE OF FILING OF NOTICE OF REMOVAL OF CIVIL ACTION TO UNITED STATES DISTRICT COURT

THE CLERK OF COURT AND THE JUDGES OF THIS HONORABLE COURT will please take notice that Defendant, Krispy Kreme Doughnuts, Inc., sued as Krispy Kreme Doughnut Corporation (“Krispy Kreme”), by and through its attorneys, has filed a Notice of Removal of this action in the United States District Court for the Eastern District of Virginia this 11th day of June, 2009. A copy of the Notice of Removal is attached hereto as Exh. A.

Krispy Kreme having given notice of said removal to all adverse parties, and having filed this Notice of Filing of Notice of Removal, the Clerk of this Court “shall effect the removal and the State court shall proceed no further unless and until the case is remanded.” 28 U.S.C. §1446(d).

DATED: June 11, 2009.

11325 Random Hills Road, Suite 200, Fairfax, Virginia 22030
703.273.8898 703.273.8897

Cameron McEvoy
P.A.C.

Respectfully submitted,

KRISPY KREME DOUGHNUTS, INC., sued as
KRISPY KREME DOUGHNUT CORPORATION
By Counsel



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CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of June, 2009, a true and accurate copy of the foregoing Notice Of Filing Of Notice Of Removal was served by first-class United States mail, postage prepaid, upon the following counsel:

Erin C. Ward, Esq.
Cynthia A. Bailey, Esq.
Marilyn S. McHugh, Esq.
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Christopher D. Pomeroy, Esq.
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EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

BOARD OF SUPERVISORS,)
FAIRFAX COUNTY, VIRGINIA,)
)
Plaintiff,)
)
v.)
)
KRISPY KREME)
DOUGHNUT CORPORATION,)
)
Defendant.)

Civil Action No. _____

NOTICE OF REMOVAL OF CIVIL ACTION

To the honorable judges of the United States District Court for the Eastern District of Virginia:

Defendant, Krispy Kreme Doughnuts, Inc., sued as Krispy Kreme Doughnut Corporation (“Krispy Kreme”), by and through its attorneys, petitions for removal of this case to the United States District Court for the Eastern District of Virginia. In support of this Notice, defendant states as follows:

1. On May 8, 2009, plaintiff filed a complaint in the Circuit Court for the County of Fairfax, Virginia (Case No. CL-2009-6793) (the “Complaint”), the style of which names as defendant Krispy Kreme.
2. Krispy Kreme was served with a copy of the Complaint on May 15, 2009.
3. Other than Krispy Kreme, no person was named as a defendant.
4. According to the allegations in the Complaint, plaintiff is a body politic and corporate in the Commonwealth of Virginia. (Compl. ¶ 6).

5. Defendant Krispy Kreme is a corporation organized and existing under the laws of the state of North Carolina, and has its principal place of business in Winston-Salem, North Carolina.

6. Relying on plaintiff's allegations, the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

7. At the time of the filing of the complaint and at the time of the filing of this Notice of Removal, complete diversity of citizenship existed between all parties properly named and served, and no named defendant is a citizen of the forum state.

8. Based on the foregoing, the underlying action is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332. The action is one which may be removed to this Court by Krispy Kreme pursuant to the provisions of 28 U.S.C. § 1441(b) as it is a civil action between citizens of different states, and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

9. This action is removable to this Court pursuant to 28 U.S.C. §1441 because this Court would have had original jurisdiction over the claims herein had plaintiff elected to file this action, in its current form, initially in the United States District Court.

10. This Court is the District Court for the United States for the district and division embracing the place where the state court action is pending, and is, thus, the appropriate court for removal pursuant to 28 U.S.C. § 1441(a).

11. In accordance with 28 U.S.C. § 1446(a), a civil cover sheet and all process, pleadings and orders served in the State Court are attached hereto as Exhibit A.

12. By filing this Notice of Removal, Krispy Kreme does not waive and hereby expressly reserves the right to assert any defense or motion available to it.

13. This Notice of Removal is timely as it is filed within 30 days of Defendant's receipt of the Complaint. See 28 U.S.C. § 1446(b); *Murry Bros. v. Michetti Pipe Stringing*, 526 U.S. 344 (1999).

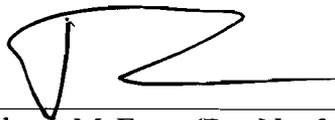
14. Promptly after filing this Notice of Removal, written notice of removal will be given to plaintiff through his attorney of record in the State Court Action and to the Clerk of Court in the State Court Action, as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendant Krispy Kreme Doughnuts, Inc., sued as Krispy Kreme Doughnut Corporation, prays that this entire action be removed from the Circuit Court for the County of Fairfax, Virginia, and that the United States District Court for the Eastern District of Virginia assume full jurisdiction over this case, as provided by law.

DATED: June 11, 2009.

Respectfully submitted,

KRISPY KREME DOUGHNUTS, INC., sued as
KRISPY KREME DOUGHNUT CORPORATION
By Counsel



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Cameron / McEvoy
P.L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2009, I served the foregoing paper on the following:

Mr. John T. Frey (By Hand)
Clerk, Fairfax County Circuit Court
4110 Chain Bridge Road
Fairfax, Virginia 22030

And by First Class U.S. Mail, postage prepaid on:

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