

1 Rajan O. Dhungana (California Bar No. 297794)
2 rajan@saharalegal.com
3 SAHARA LEGAL GROUP
4 7320 S Rainbow Blvd, Suite 102-360
5 Las Vegas, Nevada 89139
6 Telephone: (310) 795-6905
7 Fax: (775) 298-6201

8 UNITED STATES DISTRICT COURT

9
10 CENTRAL DISTRICT OF CALIFORNIA
11 (EASTERN DIVISION)

12 JOSEPH DIAZ, JR.,

Case No.: _____

13 Plaintiff,

14 vs.

NOTICE OF REMOVAL

15 RALPH HEREDIA, true name RAFAEL
16 HEREDIA TARANGO, a/k/a RAFAEL
17 HEREDIA, a/k/a RAFAEL BUSTAMANTE;
18 JOHN DOE, ESQ.; and JANE DOES 1 through
19 20, inclusive,

Defendants.

20
21 **NOTICE OF REMOVAL**

22
23 Defendant, Mr. Ralph Heredia, hereby removes Case No. CIVDS2021913 from the
24 Superior Court for San Bernardino County, California to the United States District Court for the
25 Central District of California pursuant to 28 U.S.C. §§ 1331, 1441, 1446, and as grounds for its
26 removal states as follows.

PROCEDURAL HISTORY AND RELEVANT FACTS

1. On October 7, 2020, Plaintiff, Joseph Diaz, Jr., filed a Complaint in the Superior Court for San Bernardino County, California styled Joseph Diaz, Jr. v. RALPH HEREDIA, true name RAFAEL HEREDIA TARANGO, a/k/a RAFAEL HEREDIA, a/k/a RAFAEL BUSTAMANTE; JOHN DOE, ESQ.; and JANE DOES 1 through 20, inclusive, Case No. CIVDS2021913 (the “State Court Action”). A copy of the Complaint, with exhibits, is attached as **Exhibit A** hereto.

2. Although Mr. Heredia has not been formally served with the summons and Complaint, a law firm that received a copy of the Complaint forwarded it to him.

3. Mr. Heredia, cannot ascertain the identity of John Doe, Esq. or the Jane Does. Upon information and belief, no other co-defendants have been served; thus, as a practical consent to the removal action by all properly joined and served defendants exists. 28 U.S.C. § 1446(b)(2)(A); *see also Destfino v. Reiswig*, 630 F.3d 952, 957 (9th Cir. 2011); *see also Canty v. Providence Health Sys.-S. California*, No. LACV2003347JAKJPRX, 2020 WL 5701761, at *2–3 (C.D. Cal. Sept. 23, 2020). Additionally, John Doe, Esq. and the Jane Doe’s defendants are “unknown.” *Emrich v. Touche Ross & Co.*, 846 F.2d 1190, 1193 FN1 (9th Cir. 1988) (“all defendants in a state action must join in the petition for removal, except for nominal, unknown or fraudulently joined parties.”) (citations omitted); *see also Hafiz v. Greenpoint Mortg. Funding, Inc.*, 652 F. Supp. 2d 1050, 1052 (N.D. Cal. 2009), *aff’d sub nom. Hafiz v. Greenpoint Mortg. Funding*, 409 F. App’x 70 (9th Cir. 2010).

4. The Complaint purports to assert eight causes of action including: (a) “fraud”; (b) “breach of fiduciary duty”; (c) “breach of implied-in-fact contract”; (d) “conversion”; (e) “tortious interference with prospective economic advantage”; (f) “violation of the Muhammad Ali Boxing Reform Act (15 U.S.C. §§ 6301, et. seq.)”; (g) “quantum meruit”; and (h) “accounting.” Each of Plaintiff’s claims is based on his contention that Mr. Heredia violated Federal and State law concerning regulation of professional boxing.

5. Plaintiff purports to bring each of his claims on his behalf.

1 6. The relief Plaintiff seeks includes, *inter alia*: (a) “compensatory damages in an
2 amount to be determined at trial”; (b) “pre- and post-judgment interest at the maximum rate
3 allowed by law”; (c) “punitive damages on the first, fourth, and fifth causes of action”; (d) “an
4 accounting as alleged herein”; (e) “the recovery of reasonable attorneys’ fees”; (f) “the costs of
5 this suit”; and (g) “such other and further relief as the Court may deem just and proper.”

6 **FEDERAL QUESTION JURISDICTION UNDER 28 U.S.C. § 1331**

7 7. This Court has jurisdiction over this matter under 28 U.S.C. § 1331, because this
8 case is a civil action arising under the laws of the United States. Here, Plaintiff explicitly pleads
9 a violation of the Muhammad Ali Boxing Reform Act (15 U.S.C. §§ 6301 et. seq.) (hereinafter
10 “Ali Act”). The Ali Act is a federal law and the federal question is presented on the face of the
11 Plaintiff’s Complaint in conformity with the “well-pleaded complaint rule.” *See Caterpillar Inc.*
12 *v. Williams*, 482 U.S. 386, 392 (1987) (citation omitted). “The Muhammad Ali Boxing Reform
13 Act creates a private federal cause of action for boxers who are injured in violation of the Act.”
14 *Hall v. Muhammad*, No. C-03-5095 CRB, 2004 WL 859330, at *1 (N.D. Cal. Apr. 16, 2004).
15 Further, several of the other claims Plaintiff alleges present a “substantial federal question” as
16 the claims rely on the language in the Ali Act. *See e.g., Grable & Sons Metal Prod., Inc. v.*
17 *Darue Eng’g & Mfg.*, 545 U.S. 308 (2005).

18 **ALL PROCEDURAL REQUIREMENTS FOR REMOVAL HAVE BEEN SATISFIED**

19 8. Pursuant to 28 U.S.C. § 1446(a) and Local Rules (LR) 3-1 & 7.1-1, a true and
20 correct copy of all of the process, pleadings, orders, and documents from the State Court Action
21 (which have been received but not been served on Mr. Heredia) are being filed with this Notice
22 of Removal.

23 9. This Notice of Removal has been filed within 30 days of the date that Mr. Heredia
24 received the Complaint in this matter. Removal is therefore timely in accordance with 28 U.S.C.
25 §§ 1446(b).
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on November 9, 2020, I filed the foregoing Notice of Removal with the Clerk of the Court and sent a copy of such filing via the CM/ECF system.

Furthermore, I sent a copy via certified mail and email to the following:

James L. Greeley (SBN: 218975)
jgreeley@vgcllp.com
Diyari Vázquez (SBN: 222461)
dvazquez@vgcllp.com
Alexander R. Safyan (SBN: 277856)
asafyan@vgcllp.com
VGC, LLP
1515 7th Street, No. 106
Santa Monica, California 90401
Telephone: (424) 256-8296

Attorneys for Plaintiff
Joseph Diaz, Jr.

Dated: November 9, 2020

Respectfully submitted,

/s/ Rajan O. Dhungana
Rajan O. Dhungana (SBN: 297794)
SAHARA LEGAL GROUP
7320 S Rainbow Blvd., Suite 102-360
Las Vegas, Nevada 89139
Telephone: (310)795-6905
rajan@saharalegal.com

Attorney for Defendant
Ralph Heredia