

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Julie Zanotti and Ronese Brooks, and Sherry Porter,
On Behalf of Themselves and All Other Persons
Similarly Situated,

Plaintiffs,

-against-

Invention Submission Corporation d/b/a InventHelp,
Technosystems Consolidated Corp., Technosystems
Service Corp., Western Invention Submission Corp.,
Universal Payment Corporation, Intromark
Incorporated, Innovation Credit Corp., Robert J. Susa,
Invents Company, Invents Company, LLC, Global
Express Manufacturing, Smithlilly Manufacturing,
Zambro Manufacturing, Inc., Abrams Gentile
Entertainment, LLC, Abrams Gentile Entertainment,
Inc., Ashkan Najafi, Esq., RG Patent Consulting LLC,
John Doe Companies 1-10; John Doe Individuals 1-10,

Defendants.

Civil Case No.: 18-cv-5893

**NOTICE OF REMOVAL OF
PLAINTIFFS' AMENDED
COMPLAINT**

PLEASE TAKE NOTICE that Defendant Intromark Incorporated (“Intromark”) hereby files this Notice of Removal of the above-captioned action from the Supreme Court of the State of New York, County of Westchester, Index No.: 51172/2018. This civil action is removable pursuant to 28 U.S.C. §§ 1332, 1441, 1446 and 1453. The grounds for removal are set forth below.

I. PLEADINGS AND PROCEEDINGS TO DATE

1. On or about January 25, 2018, Plaintiffs Julie Zanotti and Ronese Brooks filed a purported class action complaint in the Supreme Court of the State of New York, County

of Westchester. *See* Complaint, attached hereto as Exhibit 1. Intromark was not named in this initial pleading.

2. On or about February 12, 2018, Plaintiffs entered into a stipulation extending several of the defendants' time to move or answer as to the initial Complaint.¹
3. On or about March 1, 2018 and March 05, 2018, Defendants Ashkan Najafi, Esq. and RG Patent Consulting LLC each filed their Answers to the initial Complaint. *See* Answers, attached hereto as Exhibit 2 and Exhibit 3, respectively.
4. On or about June 1, 2018, Plaintiffs Julie Zanotti, Ronese Brooks and Sherry Porter ("Named Plaintiffs") filed an Amended Class Action Complaint ("Amended Class Action Complaint"), wherein Intromark was named a defendant. *See* Amended Class Action Complaint, attached hereto as Exhibit 4.
5. Service of the Amended Class Action Complaint was made upon Intromark on June 07, 2018. *See* Affidavit of Service, attached hereto as Exhibit 5.
6. The Amended Class Action Complaint alleges that Defendants have engaged in a "deceptive and fraudulent invention promotion scam" and seeks to assert claims for violations of New York General Business Law §§ 349 and 350, fraud, negligent misrepresentation, breach of contract, breach of duty of good faith and fair dealing, unjust enrichment, and breach of fiduciary duty.

II. PROCEDURAL REQUIREMENTS

7. Removal of this action is timely because Intromark was served with Plaintiffs' Amended Class Action Complaint on June 07, 2018. *See* Exhibit 5. In accordance with 28 U.S.C.

¹ These certain Defendants had previously filed a Motion to Dismiss the initial Complaint, which was withdrawn without prejudice.

§ 1446(b), Intromark seeks to remove the Complaint within thirty (30) days of first being served.

8. Plaintiffs filed this action in the Supreme Court of the State of New York for the County of Westchester. Therefore, this action may properly be removed to the United States District Court for the Southern District of New York. 28 U.S.C. § 1441(a).
9. Pursuant to 28 U.S.C. § 1446(d), Intromark will promptly 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 Supreme Court of the State of New York for the County of Westchester.

III. SUBJECT MATTER JURISDICTION

10. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332(d), as amended by the Class Action Fairness Act (“CAFA”).
11. Under § 1332(d) federal courts have original diversity jurisdiction over a class action where (1) “any member of a class of plaintiffs is a citizen of a State different from any defendant”; (2) “the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interests and costs”; and (3) the number of members of all proposed plaintiff classes is at least 100. As set forth below, all of those requirements are met here and therefore jurisdiction is proper.

A. Citizenship of the Parties Under CAFA

12. Plaintiff Julie Zanotti alleges that she resides in the State of New York. *See* Exhibit 4 at ¶ 22. Therefore, Intromark alleges upon information and belief that, at all times relevant

to this action and at the time of removal, Plaintiff Zanotti was and continues to be a resident of the State of New York.

13. Plaintiff Ronese Brooks alleges that she resides in the State of New York. *See* Exhibit 4 at ¶ 23. Therefore, Intromark alleges upon information and belief that, at all times relevant to this action and at the time of removal, Plaintiff Brooks was and continues to be a resident of the State of New York.

14. Plaintiff Sherry Porter alleges that she resides in the State of New York. *See* Exhibit 4 at ¶ 24. Therefore, Intromark alleges upon information and belief that, at all times relevant to this action and at the time of removal, Plaintiff Porter was and continues to be a resident of the State of New York.

15. Intromark is, and was at the time of the filing of the Amended Class Action Complaint and this Notice of Removal, a corporation incorporated in the State of Pennsylvania with its principal place of business located in Pennsylvania. Therefore, Intromark is deemed to be a citizen of Pennsylvania. 28 U.S.C. § 1332(c)(1).

16. Diversity is sufficiently established under CAFA where, as here, any single member of a class of plaintiffs is a citizen of a State different from any defendant. 28 U.S.C. § 1332(d)(2)(A). Therefore, the parties are sufficiently diverse as required by CAFA.

B. The Matter in Controversy Under CAFA

17. As set forth in the Amended Class Action Complaint, Plaintiffs allege claims and seek damages “in an amount [of] at least \$36,000,000” and “in an amount of at least \$72,000,000.” *See* Exhibit 4 at pg. 59.

18. Plaintiffs further allege that the defendants have “bilked thousands of aspiring inventors and entrepreneurs into paying millions of dollars to Defendants[.]” *See* Exhibit 4 at ¶ 1.

19. Although Intromark does not concede (a) any liability in connection with Plaintiffs' allegations; (b) that these claims state a claim for a private right of action; and/or (c) the propriety of the allegations in the Amended Class Action Complaint, Plaintiffs' allegations place "in controversy" a sum greater than \$5,000,000.
20. Where the matter in controversy is a sum greater than \$5,000,000, jurisdiction is appropriate under CAFA. 28 U.S.C. § 1332(d)(2).

C. Numerosity of the Purported Class Under CAFA

21. Plaintiffs allege that defendants have "bilked thousands of aspiring inventors and entrepreneurs into paying millions of dollars to Defendants." *See* Exhibit 4 at ¶ 1.
22. Plaintiffs further allege that "The Class consists of: All persons and entities in the United States who purchased goods and/or services from Defendants." *See* Exhibit 4 at ¶ 215.
23. Plaintiffs further allege that "Plaintiffs believe that there are thousands of consumers who are Class Members described above[.]" *See* Exhibit 4 at ¶ 220.
24. Based on these allegations, the purported class exceeds 100 members and jurisdiction is therefore appropriate under CAFA. 28 U.S.C. § 1332(d)(5)(B).

IV. REMAINING PROCEDURAL REQUIREMENTS

25. This notice of removal is accompanied by true and correct copies of all pleadings, process and orders served upon Intromark, as required by 28 U.S.C. § 1446(a).
26. Pursuant to CAFA, consent of all defendants to removal is not required. 28 U.S.C. § 1453(b) ("[S]uch action may be removed by any defendant without the consent of all defendants.")

27. In addition to promptly providing written notice of removal of the action to Plaintiffs and promptly filing a copy of this Notice of Removal with the Clerk of the Supreme Court of the State of New York for the County of Westchester, counsel for Intromark will also promptly serve by mail a copy of this Notice on all other defendants (at the addresses listed for them in the Summons, Affidavits of Service or to their counsel).

28. Accordingly, this civil action is properly removable to the United States District Court for the Southern District of New York.

WHEREFORE, Intromark respectfully requests that this action, currently pending in the Supreme Court of the State of New York, County of Westchester, be removed to this Court and placed on the docket of this Court for further proceedings as though originally instituted in this Court. If any question arises as to the propriety of the removal of this action, Intromark respectfully requests the opportunity to present a brief and oral argument in support of its position that this civil action is removable.

Dated: June 29, 2018

Respectfully submitted,

FOX ROTHSCHILD LLP

/s/ Daniel A. Schnapp
Daniel A. Schnapp, Esq.
101 Park Avenue, 17th Fl.
New York, NY 10017
(212) 878-7900
Attorney for Intromark Incorporated