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9 Attorneys for Defendants  
10 H&R BLOCK, INC.; HRB TAX GROUP, INC.; and  
HRB DIGITAL LLC  
11

12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN FRANCISCO DIVISION

15 PELANATITA OLOSONI, and DEREK  
16 SNARR, on behalf of themselves, the general  
public, and those similarly situated,

17 Plaintiffs,

18 v.

19 H&R BLOCK, INC., HRB TAX GROUP,  
20 INC., HRB DIGITAL LLC, and DOES 1  
THROUGH 50,

21 Defendants.  
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**Case No. 3:19-cv-03610**

**DEFENDANTS' NOTICE OF  
REMOVAL OF CIVIL ACTION  
FROM STATE COURT**

**[CAFA JURISDICTION; FEDERAL  
QUESTION JURISDICTION]**

PLEASE TAKE NOTICE THAT Defendants H&R Block, Inc., HRB Tax Group, Inc., and HRB Digital LLC (“Defendants”) hereby remove this matter from the Superior Court of the State of California, County of San Francisco, to the United States District Court for the Northern District of California pursuant to 28 U.S.C. §§ 1331, 1332(d), 1367(a), 1441, and 1446.<sup>1</sup> The grounds for removal are as follows:

**Claims Asserted in Complaint**

1. On May 17, 2019, plaintiffs Pelanatita Olosoni and Derek Snarr (“Plaintiffs”) filed a Class Action Complaint in the Superior Court of California for the County of San Francisco, Case No. CGC-19-576093, captioned *Pelanatita Olosoni and Derek Snarr, on behalf of themselves, the general public, and those similarly situated v. H&R Block, Inc., HRB Tax Group, Inc., HRB Digital LLC, and DOES 1 through 50* (the “Complaint”).

2. In the Complaint, Plaintiffs assert claims against all Defendants for: (1) violation of the Consumers Legal Remedies Act (“CLRA”), California Civil Code § 1750, *et seq.*; (2) false advertising, Business and Professions Code § 17500, *et. seq.* (“FAL”); (3) unlawful, unfair, and fraudulent trade practices in violation of Business and Professions Code § 17200, *et seq.* (“UCL”); (4) breach of contract; and (5) unjust enrichment. Compl. ¶¶ 130, 144, 152, 168, 176.

3. Plaintiffs purport to represent the following nationwide Class:

All persons who, between May 17, 2015 and the present, paid to file one or more federal tax returns through Defendants’ internet-based filing system even though they were eligible to file those tax returns for free under IRS Free File (the “Nationwide IRS Free File Class”).

Compl. ¶ 115.

4. Plaintiffs also purport to represent three Subclasses: (1) “a subclass consisting of those members of the Nationwide IRS Free File Class who were eligible to file the subject tax returns through Defendants’ True Free File Service (the ‘Nationwide HRB Free File Subclass’);

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<sup>1</sup> By removing this action, Defendants do not waive any objections to personal jurisdiction, venue, or forum. Defendants expressly reserve their right to object to personal jurisdiction, venue, and forum, and further to assert all rights and defenses, including, but not limited to, those defenses articulated in Federal Rule of Civil Procedure 12.

(2) “a subclass consisting of those members of the Nationwide IRS Free File Class who reside in and were citizens of California at the time of the payments (the ‘California IRS Free File Subclass’); and (3) “a subclass consisting of those members of the Nationwide HRB Free File Class who reside in and were citizens of California at the time of the payments (the ‘California HRB Free File Subclass’).” *Id.* ¶¶ 116-118.

5. Plaintiffs seek injunctive and declaratory relief, restitution, compensatory damages, disgorgement, attorneys’ fees and costs. Compl. Prayer for Relief ¶¶ A-C.

### **Compliance with Statutory Requirements**

6. On May 22, 2019, Plaintiffs served Defendants with the Summons and Complaint. Defendants’ removal of this action is therefore timely because they are filing the instant Notice of Removal within 30 days of the date Plaintiffs served them with the Complaint. 28 U.S.C. § 1446(b). In accordance with 28 U.S.C. § 1446(a), true and correct copies of Plaintiffs’ Summons and Complaint are attached to this Notice of Removal as Exhibit A. A true and correct copy of all state court orders are attached to this Notice of Removal as Exhibit B.

7. In accordance with 28 U.S.C. § 1446(d), Defendants will provide written notice of removal of this action to Plaintiffs’ counsel and will promptly file a copy of this Notice of Removal and the necessary, attendant documents with the Clerk of the San Francisco County Superior Court. A true and correct copy of Defendants’ Notice to State Court and Adverse Party of Removal from State Court to the United States District Court of the Northern District of California (without exhibits) is attached to this Notice of Removal as Exhibit C.

### **Venue / Intradistrict Assignment**

8. Plaintiffs filed this case in the Superior Court of California, County of San Francisco; therefore, this case may properly be removed to the San Francisco Division of the Northern District of California. 28 U.S.C. § 1441(a).

### **Original Jurisdiction—Class Action Fairness Act**

9. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332(d) (as amended by the Class Action Fairness Act of 2005, Pub. L. No. 109-2, 119 Stat. 14 (“CAFA”)). Plaintiffs purport to bring this action as a class action under California law. *See*

1 Compl. ¶ 115. California Code of Civil Procedure Sections 382 and 1781 pertaining to class  
 2 actions are similar to Federal Rule of Civil Procedure 23. Plaintiffs' action thus constitutes a  
 3 "class action." *See* 28 U.S.C. § 1332(d)(1).

4 10. Under Section 1332(d), federal courts have original diversity jurisdiction over a  
 5 class action whenever: (1) "any member of a [putative] class of plaintiffs is a citizen of a State  
 6 different from any defendant," 28 U.S.C. § 1332(d)(2)(A); (2) "the matter in controversy exceeds  
 7 the sum or value of \$5,000,000, exclusive of interest and costs," 28 U.S.C. § 1332(d)(2); and (3)  
 8 "the number of members of all proposed plaintiff classes in the aggregate is" more than 100. *See*  
 9 28 U.S.C. § 1332(d)(2), (5)(B).

10 11. Defendants deny Plaintiffs' allegations and claims, deny class certification is  
 11 appropriate, deny liability, and deny Plaintiffs or any member of the putative Class and  
 12 Subclasses is entitled to restitution, damages, or any other relief whatsoever, and reserve all rights  
 13 in these regards. However, for the purposes of meeting the jurisdictional requirements of removal  
 14 only, Defendants submit that this Court has subject matter jurisdiction over this action pursuant to  
 15 CAFA because this is a putative class action in which Plaintiffs and Defendants are citizens of  
 16 different states, the amount in controversy exceeds \$5,000,000, there are 100 or more members in  
 17 Plaintiff's proposed class, and no exceptions to CAFA apply.

18 (1) Minimum Diversity Requirements are Satisfied

19 12. Diversity of citizenship exists because, based on the allegations in the Complaint,  
 20 Plaintiffs and Defendants are citizens of different states. 28 U.S.C. § 1332(d)(2).

21 13. Plaintiff Olosoni and Plaintiff Snarr are citizens of California. They both reside in  
 22 California. Compl. ¶¶ 10-11. For purposes of determining diversity, a person is a "citizen" of the  
 23 state in which he or she is domiciled. *Kantor v. Wellesley Galleries, Ltd.*, 704 F.2d 1088, 1090  
 24 (9th Cir. 1983). Residence is prima facie evidence of domicile. *State Farm Mut. Auto Ins. Co. v.*  
 25 *Dyer*, 19 F.3d 514, 520 (10th Cir. 1994).

26 14. Defendant H&R Block, Inc. is a citizen of Missouri. Pursuant to 28 U.S.C.  
 27 Section 1332(c)(1), a corporation is "deemed to be a citizen" of every State "by which it has been  
 28 incorporated" and the State "where it has its principal place of business." Defendant H&R Block,

1 Inc. is a corporation incorporated under the laws of the State of Missouri, with its principal place  
 2 of business in the State of Missouri. Compl. ¶ 12 (identifying Defendant H&R Block, Inc. as “a  
 3 company existing under the laws of the State of Missouri, having its principal place of business”  
 4 in the State of Missouri). Defendant HRB Tax Group, Inc. is likewise a citizen of Missouri. *Id.* ¶  
 5 13 (identifying HRB Tax Group, Inc. as “a company existing under the laws of the State of  
 6 Missouri, having its principal place of business” in the State of Missouri). Finally, Defendant  
 7 HRB Digital LLC is a citizen of Delaware and Missouri. *Id.* ¶ 14 (identifying HRB Digital LLC  
 8 as “a company existing under the laws of the State of Delaware, having its principal place of  
 9 business” in the State of Missouri).<sup>2</sup>

10 15. Because Plaintiffs and Defendants are citizens of different states, the minimum  
 11 diversity requirement is satisfied.

12 (2) The Amount in Controversy Exceeds \$5,000,000

13 16. Although Defendants concede neither liability on Plaintiffs’ claims nor the  
 14 propriety or breadth of the proposed Class or Subclasses as alleged by Plaintiffs, the Complaint  
 15 places in controversy a sum that exceeds \$5,000,000. *See* 28 U.S.C. § 1332(d)(6).

16 17. Under CAFA, the claims of individual class members are aggregated to determine  
 17 if the amount in controversy meets the \$5,000,000 threshold. *Id.* A notice of removal must  
 18 include only “a plausible allegation that the amount in controversy exceeds the jurisdictional  
 19 threshold.” *Fritsch v. Swift Transp. Co. of Ariz., LLC*, 899 F.3d 785, 788 (9th Cir. 2018) (quoting  
 20 *Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 553-54 (2014)). “The  
 21 removing party’s burden is ‘not daunting,’ and defendants are not obligated to ‘research, state,  
 22 and prove the plaintiff’s claims for damages.’” *Behrazfar v. Unisys Corp.*, 687 F. Supp. 2d 999,  
 23 1004 (C.D. Cal. 2009). Moreover, in support of an allegation that the amount-in-controversy  
 24 threshold is satisfied, a removing defendant may submit specific factual details to support its  
 25 contentions. *See Ibarra v. Manheim Invs., Inc.*, 775 F.3d 1193, 1197 (9th Cir. 2015).

26 <sup>2</sup> Because HRB Digital is a limited liability corporation, it is a citizen of each state of which  
 27 its members are citizens. *See Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 894, 899  
 28 (9th Cir. 2012). HRB Digital’s sole member is another Delaware LLC, which in turn has as its  
 sole member a Missouri corporation. Hence, even when accounting for the citizenship of its  
 membership, HRB Digital LLC still is only a citizen of Delaware and Missouri.

18. Plaintiffs allege that, pursuant to an agreement with the Internal Revenue Service (“IRS”), Defendants are required to make available free electronic tax filing services to certain eligible tax payers with an adjusted gross income (“AGI”) equal to or less than that of 70 percent of all taxpayers for the prior year. *See* Compl. ¶¶ 3-4, 36-37. Plaintiffs allege, for example, that in 2019 (for the 2018 tax year), taxpayers with an AGI of \$66,000 or less qualified for the IRS Free File program. *Id.* ¶ 37. Plaintiffs allege that although Defendants do offer such a free service, Defendants “hide that program from taxpayers and divert tax payers seeking free e-file services into Defendants’ paid programs.” *Id.* ¶ 4. Plaintiffs allege that Defendants’ conduct “violate[s] both California law and Defendants’ agreement with the IRS.” *Id.*

19. Plaintiffs seek to represent a nationwide putative Class consisting of:

All persons who, between May 17, 2015 and the present, paid to file one or more federal tax returns through Defendants’ internet-based filing system even though they were eligible to file those tax returns for free under IRS Free File (the “Nationwide IRS Free File Class”).

*Id.* ¶ 115. Plaintiffs also seek to represent a putative Subclass, among others, consisting of those members of the Nationwide IRS Free File Class who were California residents and citizens at the time they paid to file their tax returns. *Id.* ¶ 117.

20. Plaintiffs seek disgorgement and/or restitution of the fees paid by Plaintiffs and putative members of the Class and Subclasses during the proposed class period of May 17, 2015 to the present. *See* Compl. ¶¶ 147, 161, 177; *id.*, Prayer for Relief ¶ B.

21. Without prejudice to Defendants’ continued reservation of all objections and defenses in this action, including defenses to liability, damages, and class certification, the alleged controversy for one year alone exceeds the \$5,000,000 CAFA threshold.

22. As set forth in H&R Block, Inc.’s 2019 Annual Report filed with the United States Securities and Exchange Commission (hereafter, the “10-K”)<sup>3</sup>, the total revenues from H&R Block do-it-yourself (“DIY”) tax preparation services were approximately \$260,000,000 for the

<sup>3</sup> A true and correct copy of the 10-K is attached as Exhibit D. The 2019 10-K (as well as Annual 10-K reports for prior years) also may be accessed on the Securities And Exchange Commission’s website through the EDGAR system. The 2019 10-K is accessible at <https://www.sec.gov/Archives/edgar/data/12659/000157484219000022/hrb2019043010k.htm>.

1 fiscal year ending April 30, 2019. *See* 10-K at 25. Plaintiffs allege that 75% of DIY tax returns  
 2 prepared through H&R Block in fiscal year 2019 were prepared online. *See* Compl. ¶ 31. Thus,  
 3 based on Plaintiffs' allegation, the total revenues attributable to DIY online tax returns in fiscal  
 4 year 2019 were several multiples of CAFA's \$5,000,000 million threshold.

5 23. Moreover, Plaintiffs allege that 70% of all taxpayers are eligible for free online  
 6 filing through the IRS Free File program. *See id.* ¶¶ 3, 37. Plaintiffs seek an award of  
 7 disgorgement and restitution for those taxpayers who paid to use "Defendants' internet-based  
 8 filing system even though they were eligible to file those tax returns for free under IRS Free  
 9 File." *Id.* ¶¶ 115, 177; *id.*, Prayer for Relief ¶ B. Because the total revenues attributable to DIY  
 10 online tax returns in fiscal year 2019 were several multiples of CAFA's \$5,000,000 million  
 11 threshold, and because 70% of those revenues is also several multiples of CAFA's \$5,000,000  
 12 million threshold, the amount in controversy clearly exceeds \$5,000,000.

13 24. Moreover, as discussed above, the proposed class period goes back to May 17,  
 14 2015. Thus, the amount in controversy would involve at least four years of online tax preparation  
 15 revenues, and not just 2019 alone.

16 25. Because a plausible estimate of the amount in controversy, based on the  
 17 allegations in Plaintiffs' Complaint, exceeds \$5,000,000 for 2019 alone, there can be no dispute  
 18 that the \$5,000,000 minimum CAFA requirement is satisfied.

### 19 (3) The Putative Class Consists of More Than 100 Individuals

20 26. The number of putative class members in the aggregate well exceeds 100  
 21 members. 28 U.S.C. § 1332(d)(5)(B). Plaintiffs allege that "[t]he proposed Classes are so  
 22 numerous that joinder of all members is impractical" and that the number of putative members "is  
 23 well in excess of 1,000 people." Compl. ¶ 123. This requirement is therefore satisfied.

24 27. Accordingly, because this matter is a putative class action with 100 or more class  
 25 members, is between citizens of different states, and places more than \$5,000,000 in controversy,  
 26 removal is proper pursuant to 28 U.S.C. §§ 1332(d) and 1453.

27 28. None of CAFA's discretionary or mandatory exceptions to jurisdiction applies  
 28 here because, as discussed above, no Defendant is a citizen of California. *See* 28 U.S.C. §



1 1332(d)(3)-(4).

2 **Original Jurisdiction—Federal Question**

3 29. This Court also has original jurisdiction over the matter because it presents a  
4 federal question. *See* 28 U.S.C. §§ 1331, 1441.

5 30. “[I]n certain case[s], federal-question jurisdiction will lie over state-law claims that  
6 implicate significant federal issues.” *Grable & Sons Metal Prods., Inc. v. Darue Eng’g & Mfg.*,  
7 545 U.S. 308, 312 (2005). “The doctrine captures the commonsense notion that a federal court  
8 ought to be able to hear claims recognized under state law that nonetheless turn on substantial  
9 questions of federal law, and thus justify resort to the experience, solicitude, and hope of  
10 uniformity that a federal forum offers on federal issues.” *Id.*

11 31. “[F]ederal jurisdiction over a state law claim will lie if a federal issue is: (1)  
12 necessarily raised, (2) actually disputed, (3) substantial, and (4) capable of resolution in federal  
13 court without disrupting the federal-state balance approved by Congress.” *Gunn v. Minton*, 568  
14 U.S. 251, 258 (2013) (citing *Grable*, 545 U.S. at 313-14). “Where all four of these requirements  
15 are met . . . jurisdiction is proper because there is a ‘serious federal interest in claiming the  
16 advantages thought to be inherent in a federal forum,’ which can be vindicated without disrupting  
17 Congress’s intended division of labor between state and federal courts.” *Id.* at 258. As set forth  
18 below, this case meets all four requirements.

19 32. First, at the center of the Complaint is an agreement with the IRS that raises  
20 federal issues and contains a federal choice of law provision, which Plaintiffs allege Defendants  
21 have breached. *See* Compl. ¶¶ 35-36, 38, 74, 83, 152-153, 165-168. The alleged breach of this  
22 agreement with the IRS raises an “obviously federal issue[.]” *Cty. of Santa Clara v. Astra USA, Inc.*,  
23 401 F. Supp. 2d 1022, 1030 (N.D. Cal. 2005) (noting that, where a case involves a federal  
24 agreement, there is “a high[] quotient of federal interest”); *see Boyle v. United Techs. Corp.*, 487  
25 U.S. 500, 504 (1988) (“[O]bligations to and rights of the United States under its contracts are  
26 governed exclusively by federal law.”); *Illinois v. City of Milwaukee, Wis.*, 406 U.S. 91, 100  
27 (1972) (“[Section] 1331 jurisdiction will support claims founded upon federal common law as  
28 well as those of a statutory origin.”).



33. Specifically, Plaintiffs allege that Defendants breached an agreement between the Internal Revenue Service (“IRS”) and Free File, Inc. (formerly Free File Alliance, LLC),<sup>4</sup> a consortium of the “the major electronic tax preparation companies.” *See* Compl. ¶¶ 35-36, 38, 74, 83, 152-153, 165-168. On October 30, 2002, the IRS and FFI entered into a 3-year agreement—the Free Online Electronic Tax Filing Agreement (“Free File Agreement”)—“that set forth parameters for the IRS Free File program.” Compl. ¶ 36. A true and correct copy of the Free File Agreement referenced in paragraph 36 of the Complaint is attached hereto as Exhibit E. Section VIII of the Free File Agreement states: “This Agreement is governed by Federal law.” Free File Agreement, § VIII. The IRS and FFI renewed their Free File Agreement and entered into subsequent Memoranda of Understanding (“MOU”) to the original Free File Agreement. Compl. ¶ 38. The current and operative agreement is the Eighth Memorandum of Understanding on Service Standards and Disputes Between the Internal Revenue Service and Free File, Incorporated (“Eighth MOU”), which was entered into on October 31, 2018. *Id.* The Eighth MOU is attached to the Complaint as Exhibit 2. The choice of law provision contained in the Free File Agreement remains in effect per Article 9 of the Eighth MOU. *See* Eighth MOU, art. 9.<sup>5</sup>

34. In *New SD, Inc. v. Rockwell International Corp.*, 79 F.3d 953 (9th Cir. 1996), the Ninth Circuit held that a breach of contract claim founded upon an agreement governed by federal common law presents a “question aris[ing] under federal law, and federal question jurisdiction exists.” *Id.* at 955. Here, Plaintiffs assert a breach of contract claim against Defendants in their fourth cause of action. Plaintiffs allege that the Eighth MOU constitutes an agreement “between the IRS and FFI (including FFI Members).” Compl. ¶ 165. Plaintiffs assert that they and putative members of the Classes “are third-party beneficiaries of the Eighth MOU.” *Id.* ¶ 167. Plaintiffs further allege that Defendants breached the terms of the Eighth MOU by failing to comply with at least nine separate obligations set forth in the Eighth MOU, including the requirement “to provide

<sup>4</sup> Plaintiffs refer to Free File, Inc. and its predecessor Free File Alliance, LLC collectively as “FFI.” Compl. ¶ 35.

<sup>5</sup> Hereinafter, the terms “Free File Agreement” and “MOU” refer respectively to the operative versions of the Free File Agreement and MOU in effect at the relevant time.

1 taxpayers the option to file their tax return online without charge.” *See Id.* ¶ 168. Plaintiffs also  
 2 base their third cause of action for unfair competition on allegations that Defendants breached the  
 3 Eighth MOU. *See id.* ¶ 153 (“Defendants have engaged, and continued to engage, in unfair,  
 4 unlawful, and fraudulent practices ... which include without limitation: ... “[c.] unlawfully,  
 5 unfairly, and/or fraudulently violating, breaching and/or circumventing the provisions of the  
 6 Eighth MOU....”). Because Plaintiffs allege that Defendants breached an agreement governed by  
 7 federal law, the Complaint raises a federal issue.

8 35. Second, the federal issue raised in the Complaint is actually disputed because  
 9 Plaintiffs and Defendants disagree on the interpretation of the obligations under, and alleged  
 10 breach of, the Free File Agreement and MOU. *See Cty. of Santa Clara v. Astra USA, Inc.*, 588  
 11 F.3d 1237, 1243 n.5 (9th Cir. 2009) (*rev’d on other grounds*, 563 U.S. 110 (2011)) (holding the  
 12 enforcement of an obligation created by a nationwide federal agreement which must be  
 13 interpreted according to federal law is actually disputed and “was properly heard by the district  
 14 court in the exercise of its 28 U.S.C. § 1331 federal question jurisdiction”).

15 36. The Complaint alleges that Defendants “violate[d]” the agreement with the IRS  
 16 by, among other things, (a) “advertis[ing], and direct[ing] consumers to, a competing service that  
 17 Defendants represent as ‘free’ ... , which is **not** the same as Defendants’ [IRS Free File program]  
 18 and which is ultimately **not** free for most taxpayers,” (b) “manipulate[ing] search engine results to  
 19 divert taxpayers seeking free services ... into Defendants’ Bait-and-Switch Program, and then  
 20 prompt[ing] many tax payers to pay Defendants for services those taxpayers do not need,” and (c)  
 21 “not inform[ing] [taxpayers ineligible for Defendants’ Free File service] that there are other free  
 22 filing offers or that the IRS Free File program is much broader than Defendants’ [Free File  
 23 Service].” Compl. ¶¶ 5-8 (emphasis in original). Defendants dispute not only that such acts and  
 24 practices alleged the Complaint occurred, but that they were even required by, or prohibited  
 25 under, the terms of the Free File Agreement and MOU.

26 37. Third, the federal issue raised in the Complaint is substantial because federal law  
 27 controls the Free File Agreement and MOU, and the interpretation of the Free File Agreement  
 28 and MOU will significantly impact the federal system as a whole. *See Astra USA*, 401 F. Supp.

2d at 1027 (“Courts have fashioned an alternative way to evaluate substantiality: the importance of the federal issue.”). As the Ninth Circuit held in a later appeal in *Astra USA*, that lawsuit—which alleged breach of a federal agreement to which federal law applied—satisfied the substantial prong (and other prongs) of the *Grable* test, such that jurisdiction under 28 U.S.C. § 1331 was proper, “regardless of whether federal or state law create[d] the [underlying] cause of action.” *Astra USA*, 588 F.3d at 1243 n.5 (noting also that the claim “‘implicate[d] the government’s . . . interests’ in the uniform administration of the [federal program at issue] and the parties’ compliance with federal law.”).

38. Here, Plaintiffs allege in their fourth cause of action that Defendants breached the Free File Agreement and Eighth MOU to which they are allegedly third-party beneficiaries. Compl. ¶¶ 165-167. Plaintiffs’ third cause of action for unfair competition also is based on allegations that Defendants’ breached their obligations pursuant to the Eighth MOU. *Id.* ¶ 153. Because Plaintiffs’ right to relief depends on the interpretation of that MOU, as well as the Free File Agreement, the question of federal law is substantial. *See Copeland-Turner v. Wells Fargo Bank, N.A.*, No. CV-11-37-HZ, 2011 WL 996706, at \*5 (D. Or. Mar. 17, 2011) (holding that claim met “the ‘arising under’ prong of section 1331 because the plaintiff’s right to relief necessarily depends on the resolution of a substantial question of federal law.”); *Hammonds v. Aurora Loan Servs. LLC*, Civ. No. EDCV 10-1025, 2010 WL 3859069, at \*2 (C.D. Cal. Sept. 27, 2010) (“Federal law controls the interpretation of the [Home Affordable Modification Program] contract [because] [w]hen a contract is entered into under federal law and one party is the United States, federal law applies.”).

39. Further, the interpretation of the Free File Agreement and MOU invoke a substantial federal interest because it will significantly affect the federal system as a whole—specifically, the filing of electronic tax returns by a group of Americans across the nation who meet certain criteria and who may opt to file their taxes using the IRS Free File program. *See Hornish v. King Cty.*, 899 F.3d 680, 690 (9th Cir. 2018).

40. This is not a case where the federal issue in dispute is significant to only the

1 Plaintiffs and Defendants in the immediate suit. To the contrary, the interpretation of the Free  
 2 File Agreement and MOU, and the resulting impact on the parties' rights and obligations under  
 3 the Agreement and MOU, will reach beyond the State of California. It will affect eligible  
 4 taxpayers across the nation who may opt to file their taxes using the IRS Free File program, as  
 5 well as a federal agency (the IRS) and all members of FFI. The importance of the Free File  
 6 Agreement and MOU to the federal system is further bolstered by recent litigation brought *in*  
 7 *Federal Court* in the Northern District of California, also alleging violations of these agreements.  
 8 *See Sinohui v. Intuit Inc.*, No. 3:19-cv-02546-CRB (N.D. Cal. filed May 12, 2019); *Allwein v.*  
 9 *Intuit Inc.*, No. 3:19-cv-02567-CRB (N.D. Cal. filed May 13, 2019); *Dohrmann v. Intuit, Inc.*, No.  
 10 3:19-cv-02566-NC (N.D. Cal. filed May 13, 2019); *Nichols v. Intuit Inc.*, No. 3:19-cv-02666-  
 11 CRB (N.D. Cal. filed May 16, 2019); *Kehiaian v. Intuit, Inc.*, No. 19-cv-02742-CRB (N.D. Cal.  
 12 filed May 20, 2019); *Leon v. Intuit, Inc.*, No. 3:19-cv-02878-CRB (N.D. Cal. filed May 24, 2019);  
 13 *Cook v. Intuit, Inc.*, No. 4:19-cv-03460-KAW (N.D. Cal. filed June 2, 2019).

14 41. The consistent interpretation of the Free File Agreement and MOU throughout  
 15 these cases “justif[ies] resort to the experience, solicitude, and hope of uniformity that a federal  
 16 forum offers on federal issues.” *Grable*, 545 U.S. at 312.

17 42. Finally, the federal issue raised in the Complaint is capable of resolution in federal  
 18 court without disrupting the federal-state balance approved by Congress because cases involving  
 19 contract and unfair competition claims predicated upon federal issues “are already endemic in  
 20 federal court.” *Astra USA*, 401 F. Supp. 2d at 1029. As the *Astra USA* Court held:

21 There is no reason to believe that allowing federal jurisdiction over  
 22 cases such as the instant one would tip the balance of federal-state  
 23 judicial responsibilities. As noted . . . such cases already have been  
 heard in both federal and state fora.

24 *Id.* at 1031. Indeed, as supported by the federal law provision contained in the Free File  
 25 Agreement, this case involves “the type of task that already falls to federal courts.” *Id.* at 1030.

26 43. Thus, Plaintiffs assert claims that “arise[] under the . . . laws . . . of the United  
 27 States,” 28 U.S.C. § 1331, because they arise from and are dependent upon the Free File  
 28 Agreement and MOU (a) to which the federal government is a party, (b) that contain a federal

1 choice of law provision, (c) that are governed by federal law, and (d) that implicate substantial  
 2 federal interests. Accordingly, Defendants properly remove this case pursuant to 28 U.S.C.  
 3 § 1331.

4 44. Pursuant to 28 U.S.C. §§ 1367(a) and 1441, this Court has supplemental  
 5 jurisdiction over Plaintiffs' remaining state-law claims against Defendants for violation of  
 6 California's Consumer Legal Remedies Act, false advertising, and unjust enrichment because  
 7 they arise from the same set of operative facts, relate to the same alleged conduct, and form part  
 8 of the same case or controversy as the claims implicating substantial federal issues. *See City of*  
 9 *Chi. v. Int'l Coll. of Surgeons*, 522 U.S. 156, 164-65 (1997) ("[T]he federal courts' original  
 10 jurisdiction over federal questions carries with it jurisdiction over state law claims that 'derive  
 11 from a common nucleus of operative fact,' such that 'the relationship between [the federal] claim  
 12 and the state claim permits the conclusion that the entire action before the court comprises but  
 13 one constitutional "case."') (quoting *Mine Workers v. Gibbs*, 383 U.S. 715, 725 (1966)).

14 WHEREFORE, Defendants hereby remove this state court action from the Superior Court  
 15 of the State of California, County of San Francisco.

16  
 17 Dated: June 21, 2019

JONES DAY

18  
 19 By: /s/ Darren K. Cottriel

Darren K. Cottriel

20 Counsel for Defendants  
 21 H&R BLOCK, INC.; HRB TAX GROUP,  
 22 INC.; and HRB DIGITAL LLC  
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