

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

<b>LILLIAN EASLEY and all others</b>	)	
<b>similarly situated,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>v.</b>	)	<b>Case No.</b>
	)	
<b>WLCC II D/B/A</b>	)	
<b>ARROWHEAD ADVANCE,</b>	)	
	)	
<b>Defendants.</b>	)	

**NOTICE OF REMOVAL**

Pursuant to the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d), and 28 U.S.C. § 1441 and 1446, Defendant WLCC II d/b/a Arrowhead Advance (“Defendant” or “WLCC”),<sup>1</sup> hereby gives notice of the removal of the above-styled civil action from the Circuit Court for Mobile County, Alabama where it is now pending as Case No. 02-CV-2020-902491, to the United States District Court for the Southern District of Alabama, Southern Division. In support of its Notice of Removal, WLCC states the following:

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<sup>1</sup> By filing this notice of removal, WLCC does not intend to waive its defense of sovereign immunity and expressly reserves the right to assert such a defense at an appropriate time.

## **ALLEGATIONS OF THE COMPLAINT**

1. On or about December 16, 2020, Plaintiff Lillian Easley (“Plaintiff”), on behalf of herself and all others similarly situated, filed the Complaint in this action in the Circuit Court for Mobile County, Alabama. A copy of the Complaint is attached as “**Exhibit 1.**”

2. The Complaint alleges claims seeking relief on behalf of a putative class of Alabama consumers and alleges violations of the Alabama Small Loans Act, Ala. Code § 5-18-1, *et seq.* The Complaint also seeks confirmation of an arbitration award Plaintiff obtained through a previous arbitration against WLCC. (Compl., Count II.)

3. The Complaint alleges the following putative class: “[a]ll Alabama residents from whom Defendant collected, received or retained any sums in connection with any personal loan extended by Defendant in Alabama (wherein the actions taken by the borrower to accept the terms of the loan agreement were made within Alabama) to such resident in any principal amount less than One Thousand Five Hundred Dollars (\$1,500) and within the period beginning four years preceding the filing of this Complaint to the date that the class is certified.” (Compl. ¶ 31.)

## **REMOVAL PROCEDURES**

4. In accordance with 28 U.S.C. § 1446(a), a copy of all “process, pleadings and orders” received by Defendants are attached hereto as “**Exhibit 2.**”

5. WLCC was served with the Complaint in this case on December 30, 2020. (Declaration of Raycen Raines, ¶ 5, attached as “**Exhibit 3**”). Therefore, this Notice of Removal has been timely filed pursuant to 28 U.S.C. § 1446(b), because WLCC is filing this Notice of Removal “within 30 days after the receipt by the defendant[s], through service or otherwise, of a copy of the initial pleading . . . .”

6. This action is removable pursuant to 28 U.S.C. § 1441, which authorizes removal of any civil action brought in a state court in which the United States District Court has original jurisdiction. This Court has original jurisdiction based upon 28 U.S.C. § 1332(d) because this is a class action with at least 100 putative class members, there is diversity of citizenship between at least one class member and a defendant, and the aggregate amount in controversy exceeds \$5,000,000.

7. Pursuant to 28 U.S.C. § 1441(a), this case is properly removable to this Court, which is the United States District Court for the district and division embracing Mobile County, Alabama, where the state court action is pending. *See* 28 U.S.C. § 81(a)(3).

8. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served on Plaintiff on this date, and a copy of this Notice of Removal is being filed with the Clerk of Court for the Circuit Court of Mobile County, Alabama.

### **CAFA JURISDICTION**

9. This Court has subject matter jurisdiction pursuant to CAFA because this is a class action with at least 100 putative class members, there is diversity of citizenship between at least one class member and one defendant (minimal diversity), and the aggregate amount in controversy exceeds \$5,000,000.

#### **Plaintiff's Action is a Class Action for Purposes of CAFA**

10. The Complaint is titled: "Complaint for Individual and Class Relief." (Compl., p. 1). It states: "Plaintiff, for herself and on behalf of a class, seeks a declaration that the violating loans are void *ab initio* and seeks recovery of all sums collected, received or retained by Defendant in connection with the violating loans" and then defines the purported class identified above. (*Id.* ¶ 31). The Complaint alleges that there are "the Class is so numerous that joinder of each member of the class would be impracticable," "the claims of the Plaintiff are typical of the claims of the class," "there are common questions of law and fact involved with this action that affect the rights of each member of the Class, and the relief sought is common to the Class," "a class action is superior to other available methods," "the Plaintiff will fairly and adequately represent the interests of the Class," and the "attorneys for the Plaintiff are experienced and capable in litigation in the field of class actions." (*Id.* ¶¶ 33-40).

11. As such, this matter is a class action as that term is defined pursuant to 28 U.S.C. § 1332(d)(1)(B) and 28 U.S.C. § 1453.<sup>2</sup>

The Number of Alleged Class Members Exceeds 100

12. Plaintiff alleges that the putative class he seeks to represent is so numerous that joinder of each member of the class would be impracticable. (*See* Compl. ¶ 33). Based on Plaintiff’s proposed class definition, WLCC represents that the putative class size exceeds 100. (*See* Raines Decl. ¶ 6.) This purported class action thus meets the requirements of 28 U.S.C. § 1332(d)(5)(B).

Diversity of Citizenship Exists

13. CAFA requires only minimal diversity for class actions in which “any member of a class of plaintiffs is a citizen of a State different from any defendant.” 28 U.S.C. § 1332(d)(2)(A). With minimal diversity under CAFA, “only one member of the plaintiff class – named or unnamed – must be diverse from any one defendant.” *Lowery v. Ala. Power Co.*, 483 F. 3d 1184, 1194 n. 24 (11th Cir. 2007).

14. Defendant WLCC is a tribal corporation organized under the laws of the Oglala Sioux Tribe, a federally recognized American Indian Tribe. (Raines Decl. ¶ 3.)

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<sup>2</sup> Although this action was filed by Plaintiff as a putative class action and is therefore removable under the relevant statutes, WLCC does not admit that this action can properly proceed as a class action. WLCC expressly reserves the right to challenge whether the action brought by Plaintiff meets the requirements of Fed. R. Civ. P. 23 or any other applicable rule.

15. Defendant’s principal place of business is in South Dakota. (Compl. ¶ 2; Raines Decl. ¶ 4.)

16. Plaintiff avers that she is an Alabama citizen, residing and domiciled in Mobile County, Alabama. (Compl. ¶ 1.) Because WLCC is a citizen South Dakota and Plaintiff is a citizen of Alabama, CAFA’s requirement of minimal diversity is satisfied.

The Amount in Controversy Requirement Is Satisfied

17. Under CAFA, “the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of \$5,000,000 exclusive of interests and costs.” 28 U.S.C. § 1332(d)(6).

18. The amount in controversy “is less a prediction of ‘how much the plaintiffs are ultimately likely to recover,’ than it is an estimate of how much will be put at issue during the litigation.” *S. Fla. Wellness v. Allstate Ins. Co.*, 745 F.3d 1312, 1316 (11th Cir. 2014) (quoting *Pretka v. Kolter City Plaza II, Inc.*, 608 F.3d 744, 752 (11th Cir. 2010)).

19. Plaintiff seeks declaratory relief by way of (a) disgorgement, (b) a declaration that WLCC’s loans with the putative class members are void, and (c) an injunction preventing WLCC from continuing to offer loans in Alabama without a license. (Compl. ¶¶ 36, 37). The Eleventh Circuit has held that courts should include in the amount in controversy “the monetary value of the object of the litigation that

would flow to the plaintiffs if the injunction were granted.” *Mann v. Unum Life Ins. Of Am.*, 505 Fed. Appx. 854, 856 (11th Cir. 2013) (citation omitted). “For CAFA purposes, we aggregate the claims of individual class members and consider the monetary value that would flow to the entire class if declaratory relief were granted.” *S. Fla. Wellness*, 745 F.3d at 1316. That \$5,000,000 amount in controversy is satisfied here in numerous, discrete ways.

20. First, Plaintiff alleges that the total amount borrowed through her ten loans amounted to \$5,250, the finance charge imposed on that amount was \$14,529.02, and the total amount of payments due under the loan agreements was \$19,779.02. (Compl. ¶ 11.) Using Plaintiff’s method of valuing her individual claim, the value of the relief that would be realized by the putative class members is in excess of \$5,000,000. Additionally, the value of the loans made from December 16, 2016 through the present exceeds \$5,000,000. (Raines Decl. ¶ 7.)

21. Second, Plaintiff seeks to have WLCC “return to the Class all sums collected, received or retained in connection with each loan extended to the members of the Class.” (Compl. p. 12.) To date, the amount that Plaintiff seeks to have “disgorged” totals over \$4,600,000. (Raines Decl. ¶ 8.) During the pendency of this litigation, that number will exceed \$5,000,000. (*Id.*)

22. In total, the damages and relief that Plaintiff seeks easily exceeds the \$5,000,000 CAFA threshold.

## **CONCLUSION**

For the reasons set forth above, Defendant respectfully request that this action be, and is hereby, removed to this Court; that this Court assume jurisdiction of this action; and that this Court enter such other and further orders as may be necessary to accomplish the requested removal.

Dated: January 29, 2021.

Respectfully submitted,

By: /s/John N. Bolus

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*Attorneys for WLCC II d/b/a Arrowhead Advance*



**CERTIFICATE OF SERVICE**

I hereby certify that on January 29, 2021, a copy of the above and foregoing was filed with the United States District Court for the Northern District of Alabama using the CM/ECF system which sent notification to all counsel of record, including:

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