

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO, EASTERN DIVISION**

ZEEV FRIEDMAN, ESQ. D/B/A THE)	STATE CASE NO.: CV 18 903618
FRIEDMAN LAW FIRM)	
Individually and on behalf of all others)	DISTRICT CASE NO.: 1:18-CV-2373
similarly situated,)	
3401 Enterprise Parkway, Suite 330)	DISTRICT JUDGE:
Cleveland, Ohio 44122)	
)	
Plaintiff,)	
)	
v.)	
)	
BROTHER INTERNATIONAL)	
CORPORATION C/O CORPORATION)	
SERVICE COMPANY)	
50 West Broad Street, Suite 1330)	
Columbus, Ohio 43215)	
)	
Defendant.)	
)	

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant Brother International Corporation (“BIC”) files this Notice of Removal of the above-captioned matter from the Court of Common Pleas of Cuyahoga County, Ohio on the grounds of diversity jurisdiction under the Class Action Fairness Act (“CAFA”) at 28 U.S.C. § 1332(d). In support of its Notice, BIC alleges as follows:

1. On September 12, 2018, Plaintiff Zeev Friedman, Esq. d/b/a The Friedman Law Firm (“Mr. Friedman”) filed a Complaint in the Cuyahoga County Court of Common Pleas, captioned *Zeev Friedman, Esq. d/b/a The Friedman Law Firm v. Brother International Corporation*, Case No. CV 18 903618. All state-court process, pleadings, and orders are attached as *Exhibit A* and incorporated by reference. See 28 U.S.C. § 1446(a). BIC has not yet responded to the Complaint.

2. The summons and complaint were sent to BIC by certified mail on September 12, 2018.

3. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b) because it is filed within 33 days after September 12, 2018. *See* 28 U.S.C. § 1446(b) (removal proper within 30 days of service); *Hardy v. Square D Co.*, 199 F. Supp. 2d 676, 680-81 (N.D. Ohio 2002) (service by mail complete on the date the plaintiff mails the complaint/summons); Ohio C.R. 6(D) (three day extension of responsive deadlines for service by mail); Fed. R. Civ. P. 6(d) (same).

4. Pursuant to 28 U.S.C. § 1441(a), this Court is in the district and division “embracing the place where [the state court] action is pending,” as the Cuyahoga County Court of Common Pleas is located in the Northern District of Ohio, Eastern Division. 28 U.S.C. § 115(a)(1).

5. This Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332, which provides, in pertinent part, that “[t]he district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and is a class action 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).

6. This action is a class action as defined in 28 U.S.C. § 1332(d)(1)(B), and is not subject to the exception of 28 U.S.C. § 1332(d)(5)(B), because it was filed on behalf of a putative class of “over 500 persons” who allegedly purchased a “Brother laser toner cartridge.” (Compl. ¶¶ 26, 29.) Further, as explained below, (1) at least one member of Mr. Friedman’s proposed class is a citizen of a different state than BIC, and (2) the amount in controversy based on the aggregation of the proposed class members’ alleged claims exceeds \$5,000,000, exclusive of interest and costs. *See* 28 U.S.C. § 1332(d)(6).

Minimal Diversity

7. For purposes of CAFA jurisdiction, a corporation is a citizen of both the state of its incorporation and its principal place of business. 28 U.S.C. § 1332(c)(1). At the time that this action was filed and at the time of removal, BIC was, and is, a corporation incorporated pursuant to the laws of the State of Delaware with its principal place of business located in Bridgewater, New Jersey.

8. A corporation's "principal place of business" refers to the place where the corporation's high-level officers direct the corporation's activities. *Hertz Corp. v. Friend*, 559 U.S. 77, 80 (2010). This "nerve center" is typically a corporation's headquarters. *Id.* at 81. BIC's corporate headquarters are located in Bridgewater, New Jersey. The vast majority of BIC's senior management is located in this New Jersey office. BIC's legal department, financial personnel, and accounting operations are located in New Jersey.

9. Mr. Friedman agrees that BIC's principal place of business is New Jersey. (Compl. ¶ 11.) BIC is therefore a citizen of New Jersey and Delaware for purposes of CAFA jurisdiction.

10. To establish citizenship for diversity purposes, a natural person must be both a citizen of the United States and a domiciliary of one particular state. *Newman-Green, Inc. v. Alfonzo-Larrain*, 490 U.S. 826, 828 (1989). A person's domicile is the place where he or she resides with the intention to remain. *Miss. Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 48 (1989).

11. Mr. Friedman is a resident of Cuyahoga County and maintains an office in Beachwood, Ohio. (Compl. ¶¶ 10, 17, 22.)

12. Mr. Friedman is suing on behalf of a proposed class defined as "all Ohio residents, whether persons or business entities, who, at any time during the relevant limitations period,

purchased a Brother laser toner cartridge.” (Compl. ¶ 26.) Mr. Friedman alleges that there are “over 500 [such] persons.” (*Id.* ¶ 29.)

13. Applying the legal standards for “citizenship” to these factual allegations, it is more likely than not that when this case was filed and at the time of removal, both the named Mr. Friedman and many of the proposed unnamed class members were, and are, citizens of Ohio.

14. Accordingly, there is diversity of citizenship for this putative class action because at least one member of Mr. Friedman’s proposed plaintiff class is a citizen of a different State than BIC (*i.e.*, a citizen of Ohio, rather than New Jersey or Delaware). 28 U.S.C. § 1332(d)(2)(A).

The Amount In Controversy

15. 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 interest and costs.” 28 U.S.C. § 1332(d)(6). Mr. Friedman does not specifically allege the total amount of damages that he seeks for himself or on behalf of the proposed class.

16. In calculating the amount in controversy, “[t]he question is not what damages the plaintiff will recover, but what amount is ‘in controversy’ between the parties.” *Norris v. People’s Credit Co.*, No. 12-cv-3138, 2013 U.S. Dist. LEXIS 139327, at *7 (N.D. Ohio Sep. 27, 2013) (quoting *Cowit v. CitiMortgage, Inc.*, No. 12-cv-869, 2013 U.S. Dist. LEXIS 4591, at *15 (S.D. Ohio Jan. 15, 2013)); *Lewis v. Verizon Commc’ns, Inc.*, 627 F.3d 395, 400 (9th Cir. 2010) (citing *McPhail v. Deere & Co.*, 529 F.3d 947, 956 (10th Cir. 2008)) (“The amount in controversy is simply an estimate of the total amount in dispute, not a prospective assessment of defendant’s liability.”). The amount in controversy is based on the “universe of what the plaintiff puts at-issue in the complaint.” *Norris*, 2013 U.S. Dist. LEXIS 139327, at *7 (citing *Schiller v. David’s Bridal, Inc.*, No. 10-cv-00616-AWI-SKO, 2010 U.S. Dist. LEXIS 81128, at *18 (E.D. Cal. July 14, 2010)). Defendants may demonstrate the amount in controversy by “calculation from the

complaint's allegations." *Id.* at *6 (citing *Frederick v. Hartford Underwriters Ins. Co.*, 683 F.3d 1242, 1247 (10th Cir. 2012)).

17. In his Complaint, Mr. Friedman asserts that he purchased two TN620 laser toner cartridges for \$127.48 in April 2014.¹ (Compl. ¶ 17 (purchase invoice).) Each cartridge therefore cost \$63.74. (*Id.*) He alleges that "Brother laser printers will refuse to print once a . . . cartridge has been used a certain numbers of times," thereby purportedly denying access to useable toner. (Compl. ¶¶ 4, 23.) Mr. Friedman contends that the cartridge "in fact contains enough toner to print hundreds or thousands of additional pages of text." (*Id.* ¶ 4.) Based on this allegation, Mr. Friedman asserts entitlement to the "amount of the value of that portion of the toner cartridge [he was] unable to use" (Compl. ¶¶ 47, 58.) He seeks compensatory damages, punitive damages, and attorneys' fees, as well as "other or further relief as the Court deems [Mr. Friedman] and the class members entitled." (Compl., Prayer for Relief.)

18. Mr. Friedman does not assign a value to the portion of the toner cartridge he was allegedly unable to access. That value serves as the basis for his damages claim. (Compl. ¶¶ 47, 58.)

19. TN620 cartridges yield approximately 3,000 black-and-white pages measured in accordance with industry standards, or "ISO standards." *See* "TN620 Standard-yield Toner," <https://www.brother-usa.com/products/TN620> (last visited September 26, 2018); "Brother Genuine Standard Yield Toner Cartridge, TN620," <https://www.amazon.com/Brother-Standard-Cartridge-TN620-Replacement/dp/B001W3EJYW> (last visited September 26, 2018).

¹ Plaintiff also alleges that he purchased a TN650 laser cartridge in October 2017 for \$109.99. (Compl. ¶ 22.) He does not allege, however, that the TN650 cartridge stopped working with useable toner remaining.

20. Despite this yield, Mr. Friedman claims that, at the time his cartridge stopped working, it contained “enough toner to print hundreds or thousands of additional pages of text.” (Compl. ¶ 4.) Because the Complaint defines the “universe” of what is at-issue, *Norris*, 2013 U.S. Dist. LEXIS 139327, at *7, and due to Mr. Friedman’s use of the plural term “thousands,” Mr. Friedman’s allegations put at-issue the possibility that the design of the cartridge denied him at least 2,000 pages of text.

21. BIC denies that this, or any of Mr. Friedman’s other claims, are accurate or valid. Nonetheless, accepting the Complaint’s allegations solely for purposes of determining the jurisdictional amount in controversy, Mr. Friedman contends that he did not receive at least 2,000 pages out of a possible yield as alleged of 5,000 pages.² Therefore, Mr. Friedman alleges that he lost at least 40% of the potential page yield of his cartridge, i.e., 2,000 of 5,000 pages. Based on this allegation—and Mr. Friedman’s claim he is entitled to “damages in the amount of the value of that portion of the toner cartridge that [he] was unable to use”—the Complaint’s allegations put at issue recovery of 40% of Mr. Friedman’s \$63.74 April 2014 cartridge purchase price, or \$25.50. (See Compl. ¶ 17.)

22. Mr. Friedman also prays for punitive damages. While BIC disputes that Mr. Friedman can recover punitive damages for a variety of reasons, courts are to consider a Mr. Friedman’s request for punitive damages in determining the amount in controversy for purposes of diversity jurisdiction. *Klepper v. First Am. Bank*, 916 F.2d 337, 341 (6th Cir. 1990); *Hayes v. Equitable Energy Res. Co.*, 266 F.3d 560, 572 (6th Cir. 2001)). Punitive damages under Ohio law may generally amount to up to two times the amount of compensatory damages.

² Again, the 5,000 pages are comprised of (1) the 3,000 advertised pages that the toner cartridge yielded, and (2) the “thousands” of pages Plaintiff was allegedly denied.

See Ohio Rev. Code § 2315.21(D); *Sivit v. Vill. Green of Beachwood, L.P.*, Nos. 103340 & 103498, 2016-Ohio-2940, ¶ 30 (Ohio Ct. App. May 12, 2016).

23. Although the Complaint does not plead the precise amount of punitive damages sought, the amount based on Mr. Friedman's allegations can be reasonably estimated as two times the amount of compensatory damages, or \$51.00 (*i.e.*, \$25.50 x 2.). Together with claimed compensatory damages, this raises the alleged amount in controversy to \$76.50 per proposed class member.

24. As to the alleged class size, Mr. Friedman defines the proposed class as all "persons or business entities who . . . purchased a Brother laser toner cartridge" during the "relevant limitations period," which is four years for Mr. Friedman's Ohio tort claims of trespass to chattels and conversion. (Compl. ¶ 26; Ohio R.C. 2305.09 (four year statute of limitations applicable to claims for "recovery of personal property, or for taking or detaining it").) If each toner cartridge sold to a putative class member gives rise to a claim worth \$76.50, per the facts and legal theories alleged in the Complaint, then 65,360 cartridges are needed to exceed \$5,000,000.

25. Combined sales of Brother-brand toner laser cartridges at Ohio points-of-sale far exceed 65,360 between September 12, 2014 and present. Indeed, they exceed 100,000.

26. Thus, although BIC disputes liability and disputes that Mr. Friedman or any member of the proposed class are entitled to any monetary or other relief, the amount in controversy based on Mr. Friedman's allegations exceeds \$5,000,000, exclusive of interest and costs, for purposes of CAFA jurisdiction. "A defendant's notice of removal need include only a plausible allegation that [it] exceeds the jurisdictional threshold." *Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 554 (2014). "[N]o antiremoval presumption attends cases

invoking CAFA.” *Graiser v. Visionworks of Am., Inc.*, 819 F.3d 277, 282 (6th Cir. 2016) (citing *Dart*, 135 S. Ct. at 554).

27. Because there is diversity of citizenship in this putative class action and the amount in controversy exceeds \$5,000,000, exclusive of interest and costs, the requirements of subject matter jurisdiction are satisfied.

28. Pursuant to 28 U.S.C. § 1446(d), upon the filing of this Notice of Removal, BIC will serve written notice thereof on Mr. Friedman as described in the Certificate of Service.

29. Pursuant to 28 U.S.C. § 1446(d), upon the filing of this Notice of Removal, BIC will promptly notify and file with the Clerk of Courts for the Cuyahoga County Court of Common Pleas a notice of the filing of this Notice of Removal. A copy of the Notice to be filed with the Court of Common Pleas is attached as *Exhibit B*.

Dated: October 11, 2018

Respectfully submitted,

/s/ Andrew G. Fiorella

Andrew G. Fiorella (0077005)

Jaclyn C. Staple (0091013)

BENESCH, FRIEDLANDER,

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Attorneys for Defendant

Brother International Corporation

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on October 11, 2018 a true and correct copy of the foregoing *Notice of Removal* was served on the following via e-mail and first-class U.S. mail, postage prepaid, as follows:

Patrick J. Perotti, Esq.
Nicole T. Fiorelli, Esq.
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*Attorneys for Plaintiff Zeev Friedman
d/b/a The Friedman Law Firm*

/s/ Andrew G. Fiorella

Andrew G. Fiorella (0077005)

*One of the Attorneys for Defendant
Brother International Corporation*

EXHIBIT A



NAILAH K. BYRD
CUYAHOGA COUNTY CLERK OF COURTS
1200 Ontario Street
Cleveland, Ohio 44113

Court of Common Pleas

New Case Electronically Filed:
September 12, 2018 13:09

By: NICOLE T. FIORELLI 0079204

Confirmation Nbr. 1492166

ZEEV FRIEDMAN, ESQ. D/B/A FRIEDMAN LAW
FIRM

CV 18 903618

vs.

BROTHER INTERNATIONAL CORPORATION

Judge: STUART A. FRIEDMAN

Pages Filed: 10

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

**ZEEV FRIEDMAN, ESQ. D/B/A THE
FRIEDMAN LAW FIRM**, individually
and on behalf of all others similarly
situated,
3401 Enterprise Parkway, Suite 330
Cleveland, OH 44122

Plaintiff,

vs.

**BROTHER INTERNATIONAL
CORPORATION
C/O CORPORATION SERVICE
COMPANY**
50 West Broad Street
Suite 1330
Columbus, OH 43215

Defendant.

CASE NO.

JUDGE

**CLASS ACTION COMPLAINT FOR
DECLARATORY AND OTHER
RELIEF**

JURY DEMAND ENDORSED HEREON

Introduction

1. Plaintiff brings this complaint against Defendant Brother International Corporation (“Brother”) on behalf of himself and a class of all other similarly situated Ohio purchasers of Brother laser toner cartridges.

2. A significant portion of Brother’s profits from the sale of laser printers are generated, not by the sale of the actual printers, but by the sale of the laser toner cartridges holding the physical print medium materials for the printers.

3. To maximize Brother’s profits on the sale of laser toner cartridges, Brother printers deny users access to a significant amount of toner in each laser toner cartridge it sells.

4. Brother laser printers will refuse to print once a laser toner cartridge has been used a certain number of times, although that cartridge in fact contains enough toner to print hundreds or thousands of additional pages of text.

5. Brother printers do not permit a consumer to override the printer programming that requires the replacement of a toner cartridge with a substantial amount of toner remaining.

6. One federal district judge explained: “This is likely because consumers expect to use all of the [toner] in the cartridge and will not respond to a simple warning to ‘change [toner] cartridges now.’ Instead, consumers will print until they can tell by degraded print quality that [toner] is running out. ***This is because they expect full use of their [toner] cartridge.***” (Emphasis added.) *Baggett v. Hewlett-Packard Co.*, 582 F. Supp.2d 1261, 1267 (C.D. Cal. 2007).

7. Brother has committed a trespass to chattels by denying Plaintiff access to all the useable toner in his toner cartridges.

8. Brother has also committed conversion by exercising wrongful control over the Plaintiff’s toner cartridge.

9. Through this conduct, Brother has deprived Plaintiff and the class of a significant portion of the value of their purchased cartridges.

Parties

10. Plaintiff Zeev Friedman dba The Friedman Law Firm is a resident of Cuyahoga County.

11. Brother International Corporation is a Delaware corporation headquartered in Bridgewater, New Jersey. Brother is the exclusive authorized distributor of Brother-brand laser printers and laser toner cartridges within the United States.

12. Brother sells its cartridges through third-party retailers like Staples, Office Max, and others.

Jurisdiction and Venue

13. Brother distributes its printers and toner cartridges across Ohio.

14. The events giving rise to the Plaintiff's claim occurred in Cuyahoga County.

Facts


15. Plaintiff owns a Brother HL-5370DW laser printer.

16. Brother recommends the TN620 laser toner cartridge for use with the Plaintiff's printer.

17. In or about 2014, Plaintiff purchased TN620 laser toner cartridges for his Brother printer for \$127.48.

Shipment 1

Expected delivery: **April 25, 2014**

Item No.	Name	Price	Qty.	Coupons & Rewards	Subtotal
	Brother TN620 Black Toner Cartridge	\$63.74	2		\$127.48
Item: 782504					

Payment Information

Billing Address:

KRISTIN COOL
 3401 ENTERPRISE PKWY
 STE 330
 BEACHWOOD, OH 44122-7340

Merchandise Total: \$127.48
 Shipping: Free
 Tax: \$10.20
Total: \$137.68

Payment Methods

AMEX Credit Card ending in 8431 -\$137.68

18. Upon purchasing the toner cartridges, Plaintiff owned 100% of the cartridges and their contents.

19. The Plaintiff did *not* purchase a license from Brother to print a specific number of pages.

20. In October 2017, Plaintiff's Brother HL-5370DW laser printer and Brother TN620 laser printer cartridge stopped printing.

21. Plaintiff's Brother TN620 laser printer cartridge still had toner remaining, but Plaintiff could not access it due to Defendant's design.


22. Also in October 2017, Plaintiff replaced the toner cartridge with a replacement TN650, which cost \$109.99.

ORDER NUMBER: 9761274575
ORDER DATE: 10/05/2017

ITEMS FOR DELIVERY

Expected Delivery: Friday, October 06, 2017

Ship To: 3401 Enterprise Pkwy, Suite 330, Beachwood, OH 44122

	Quantity:	Price:	Discounts:	You Paid:
	1	\$109.99	\$0.00	\$109.99
Brother TN650 Toner Cartridge Black High Yield Item #782192				

23. Brother's laser printers are all programmed to deprive users of access to a significant portion of the toner in their cartridges.

24. But for Brother's design, which denied Plaintiff access to the toner in his toner cartridges, Plaintiff could have printed more pages before replacing his toner cartridges and ultimately spent less on replacement cartridges.

25. Defendant designs its laser printers to deny purchasers the ability to use the full capacity of their toner cartridges.

Class Action Allegations

26. The Plaintiff brings this action on behalf of all Ohio residents, whether persons or business entities, who, at any time during the relevant limitations period, purchased a Brother laser toner cartridge.

27. This action is brought, and may properly be maintained, as a class action under Civil Rule 23.

28. The proposed class satisfies Rule 23's numerosity, typicality, adequacy, predominance, and superiority requirements.

29. The proposed class numbers over 500 persons. The class is so numerous that joinder of all members is impracticable. And, it is impracticable to bring all such persons before this Court.

30. The injuries and damages to the class members present common questions of law and fact, including:

- a) Whether Brother printers prevented the class members from using the full capacity of their purchased cartridges;
- b) Whether Brother exerted wrongful control over class members' toner cartridges by depriving the class members of use of a significant portion of their toner cartridges' capacity and forcing consumers to prematurely replace said cartridges;

c) Whether Brother committed a trespass to chattels by designing and distributing laser printers that precluded the class members from using the full capacity of their toner cartridges.

31. The Defendant has engaged in the same conduct with respect to all the class members.

32. The Plaintiff's claims, defenses, and injuries are typical of the claims, defenses, and injuries of all the class members.

33. The Plaintiff will fully and adequately protect and represent the interests of the class members.

34. The identity of the class members cannot be determined at this time, but will be determined at a later time upon discovery and notice.

35. The prosecution of separate actions by each class member would create a substantial risk of inconsistent or varying adjudications for each individual class member that would establish incompatible standards of conduct for the Defendant.

36. The prosecution of separate actions would also create a substantial risk of adjudication with respect to individual members of the class, which, as a practical matter, would be dispositive of the interests of other members not parties to the adjudication, thereby substantially impairing and impeding their ability to protect those interests.

37. The maintenance of this suit as a class action is the superior means of disposing of the common questions that predominate herein.

First Cause of Action
Trespass to Chattels

38. Plaintiff realleges and incorporates herein all previous paragraphs of this Complaint.

39. Although Plaintiff purchased 100% of the capacity of his TN620 toner cartridges, Plaintiff was only able to use a fraction of that capacity because of how Brother programs its laser printers.

40. Plaintiff's laser printer and the laser printers of other class members were programmed to refuse to print additional pages, although the laser toner cartridge still contained useable toner.

41. Due to how the printer was programmed, Plaintiff and other class members had no choice but to replace the toner cartridge, although it still had the capacity to print additional pages.

42. Brother knew that the laser printer would preclude Plaintiff from using the full capacity of Plaintiff's TN620 laser toner cartridge, yet intentionally designed its laser printers and toner cartridges to deny Plaintiff and other class members access to the full printing capacity of the useable toner in their laser printer toner cartridges.

43. In October of 2017, when Plaintiff's laser printer required Plaintiff to change his toner cartridge, even though the toner cartridge had the capacity to print additional pages, Brother intentionally dispossessed Plaintiff of both the remaining toner in the cartridge and the remaining printing capacity of the toner cartridge.

44. By designing its laser printers and toner cartridges to deny Plaintiff and class members access to the full printing capacity of the cartridge, Defendant intentionally used or intermeddled with Plaintiff and other customers' chattel.

45. Brother permanently deprived Plaintiff and other class members of access to useable toner in their toner cartridges and the full printing capacity of their toner cartridges.

46. Brother also intentionally impaired the condition, quality, and/or value of Plaintiff's and other class members' chattel.

47. As a result, Plaintiff and the class members seek to recover damages in the amount of the value of that portion of the toner cartridge they were unable to use due to Brother's trespass.

48. For purposes of punitive damages, Brother's action was willful and had a substantial risk of causing harm to Plaintiff and the class. Brother consciously disregarded the rights of Plaintiff and the class members, and its actions had a great probability, and actually did, cause substantial harm.

Second Cause of Action
Conversion

49. Plaintiff realleges and incorporates herein all previous paragraphs of this Complaint.

50. Brother, through its design of its laser printers, exercised wrongful control over the toner in the toner cartridges of Plaintiff and the class members.

51. Brother exercised that wrongful control by programming its laser printers to refuse to print after a toner cartridge had been used a specific number of times or printed a specific number of pages.

52. Plaintiff and other class members could not override this programming, despite their toner cartridges having the capacity to print additional pages.

53. Instead, Plaintiff and the class members had to remove cartridges with remaining printing capacity, not because they chose to, but because Brother designed its equipment to require them to do so.

54. By requiring Plaintiff and class members to remove toner cartridges with additional printing capacity, Brother exercised control over those cartridges, which Plaintiff and the class members had purchased, and over which Plaintiff and class members had 100% ownership through their purchase.

55. By designing its printers and toner cartridges to deny Plaintiff and class members access to the full printing capacity of their toner cartridges, Brother exercised dominion and/or wrongful control over the toner cartridges inconsistent with, or in denial of the rights of, Plaintiff and class members.

56. Plaintiff and class members have damages due to Brother's conduct of denying them access to the full printing capacity of their toner cartridges, and which required Plaintiff and class members to purchase additional toner cartridges.

57. Brother's conduct deprived Plaintiff and class members of a significant portion of the value of their toner cartridges.

58. As a result, Plaintiff and the class members seek to recover damages in the amount of the value of that portion of the toner cartridge they were unable to use due to Brother's conversion.

59. For purposes of punitive damages, Brother's action was willful and had a substantial risk of causing harm to Plaintiff and the class. Brother consciously disregarded the rights of Plaintiff and the class members, and its actions had a great probability, and actually did, cause substantial harm.

PRAYER FOR RELIEF

Wherefore, Plaintiffs demand judgment as follows:

1. For an Order (a) determining at the earliest possible time that this matter may proceed as a class action under Civil Rule 23, and (b) certifying the class;
2. For compensatory damages;
3. For punitive damages;
4. For reasonable costs and attorney fees under common law;

5. For such other or further relief as the Court deems the Plaintiff and the class members entitled.

PLAINTIFF DEMANDS A TRIAL OF THIS MATTER BY JURY.

Respectfully submitted,

/s/ Nicole T. Fiorelli

Patrick J. Perotti, Esq. (#0005481)
Nicole T. Fiorelli, Esq. (#0079204)
Frank A. Bartela, Esq. (#0088128)
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EXHIBIT B

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY**

ZEEV FRIEDMAN, ESQ. D/B/A THE)	CASE NO.: CV 18 903618
FRIEDMAN LAW FIRM)	
Individually and on behalf of all others)	JUDGE: STUART A. FRIEDMAN
similarly situated,)	
)	
Plaintiff,)	
)	
v.)	
)	
BROTHER INTERNATIONAL)	
CORPORATION,)	
)	
Defendant.)	
)	

NOTICE OF REMOVAL FILED IN FEDERAL COURT

PLEASE TAKE NOTICE that, on October 11, 2018, pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant Brother International Corporation filed a Notice of Removal with the United States District Court for the Northern District of Ohio, Eastern Division. A true and correct copy of that Notice of Removal is attached hereto as *Exhibit A*. Pursuant to 28 U.S.C. § 1446(d), these filings effectuate the removal of this action to the United States District Court for the Northern District of Ohio, Eastern Division.

Dated: October 11, 2018

Respectfully submitted,

/s/ Andrew G. Fiorella
Andrew G. Fiorella (0077005)
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*Attorneys for Defendant
Brother International Corporation*

CERTIFICATE OF SERVICE

I hereby certify that on October 11, 2018 a true and correct copy of the foregoing *Notice of Removal Filed in Federal Court* was filed through the Court's e-Filing System and served by electronic means through that System on the following:

Patrick J. Perotti, Esq.
Nicole T. Fiorelli, Esq.
Frank A. Bartela, Esq.
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*Attorneys for Plaintiff Zeev Friedman
d/b/a The Friedman Law Firm*

/s/ Andrew G. Fiorella

Andrew G. Fiorella (0077005)

*Attorney for Defendant
Brother International Corporation*

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Claims Brother International Designed Laser Printers to Require Premature Toner Replacement](#)
