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Pro Se

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DONGXIAO YUE,

Plaintiff,

vs.

CHUN-HUI MIAO, BIAN-WANG.COM

Defendants

Case No. C18-1074-DMR

DEFENDANTS' OPPOSITION TO
PLAINTIFF'S MOTION TO REMAND TO
STATE COURT

Hearing Date: May 10, 2018

Time: 11:00 a.m.

Courtroom: 4 - 3rd Floor, Oakland Courthouse

Judge: The Honorable Donna M. Ryu

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Defendants, Chun-Hui Miao (“Miao”) and Bian-wang.com (“Bian-wang”) (hereinafter collectively “Defendant”) file this Memorandum of Points and Authorities in support of their opposition to Plaintiff Dongxiao Yue (“Plaintiff”)’s motion to remand to state court.

I. INTRODUCTION

Defendant filed the Notice of Removal (“NOR”) based on (1) diversity of citizenship; (2) amount in controversy. Neither is disputed by Plaintiff in his motion to remand. As such, the issue whether the instant case is subject to federal jurisdiction is settled.

The only objection to removal raised by Plaintiff is timeliness of the NOR filing. However, Defendant’s NOR was delivered to the Court on the 29th day after he was served, and therefore was timely filed. Even if the Court decides that the date of filing is different from the date of delivery, this removal was timely under the Ninth Circuit’s controlling decision in *Roth v. CHA Hollywood Medical Center, L.P.*, 720 F.3d 1121 (9th Cir. 2013) (holding that a defendant may remove at any time within one year from commencement of the action, so long as it does not run afoul of Section 1446(b)(1) or 1446(b)(3)). Accordingly, Defendant’s removal was timely and proper. Plaintiff did not set forth any other grounds to remand this action. Therefore, Plaintiff’s motion should be denied.

II. RELEVANT FACTUAL AND PROCEDURAL HISTORY

Plaintiff initiated this action on December 15, 2017, by filing a Complaint in the California Superior Court for Contra Costa County. Defendant received a copy of the Complaint by personal service on January 17, 2018. Defendant sent the NOR to the Court through the United States Postal Service by Priority Mail. The NOR was delivered into the mailbox of the Clerk of Court at 2:47 pm on February 15, 2018 (Exhibit A), 29 days after Defendant was served. The docket sheet, however, shows the filing date as February 20, 2018, five days after the actual

1 delivery date. On March 2, 2018, Plaintiff notified Defendant via email his intention to file a
2 motion to remand on the ground that Defendant's NOR was untimely. Defendant replied by
3 informing the Plaintiff that the NOR was actually delivered to the Court on February 15 and
4 providing a copy of the USPS delivery confirmation. Nevertheless, Plaintiff filed a Motion to
5 Remand on March 8, 2018, contending that Defendant's NOR was untimely. Based on the date
6 shown on the docket sheet, Plaintiff alleged that Defendant filed the NOR after the 30-day
7 statutory limit. Defendant now opposes.

9 **III. DEFENDANTS PROPERLY REMOVED THIS CASE TO FEDERAL COURT**

10 Plaintiff contends that Defendant's removal was untimely based on Defendant's
11 alleged failure to file within 30 days after being served the initial complaint. Plaintiff's
12 contention is invalid, even if it were, it would not merit remanding this case because the 30-day
13 removal clock under 28 U.S.C. 1446(b)(1) was not triggered by the initial complaint, which did
14 not reveal a basis for removal until Defendant's own investigation.

15 **A. Defendant's Filing of Notice of Removal Was Timely**

16 As a Pro Se litigant, Defendant is not allowed to e-file without first obtaining
17 approval of the judge assigned to the case. At the time of filing the NOR, a judge had yet to be
18 assigned. This left Filing by Mail the only practical method for Defendant, who resides in the
19 state of South Carolina.

20 "A paper is filed by delivering it: (A) to the clerk; or (B) to a judge who agrees to
21 accept it for filing, and who must then note the filing date on the paper and promptly send it to
22 the clerk." Fed. R. Civ. P. 5(d)(2). Although Federal Rules of Civil Procedure do not specify
23 Postal Mail as a filing method, the District Court's Pro Se Handbook explicitly lists Filing by
24

1 Mail as one of the acceptable filing methods (Exhibit B). Defendant also obtained confirmation
2 from the Clerk of Court in a phone call prior to filing.

3 Given the lack of explicit mention of Postal Mail as a filing method, neither
4 Federal Rules of Civil Procedure nor Local Rules of the District Court contain rules on the
5 timeliness of Filing by Mail. However, as a reference, Rules of the Supreme Court can offer
6 some useful guidance: “A document is timely filed if it is received by the Clerk within the time
7 specified for filing; or if it is sent to the Clerk through the United States Postal Service by first-
8 class mail (including express or priority mail), postage prepaid, and bears a postmark, other than
9 a commercial postage meter label, showing that the document was mailed on or before the last
10 day for filing.” Sup. Ct. R. 29(2).

11 Among the filing methods permitted by the Local Rules, Drop Box Filing bears
12 the closest resemblance to Filing by Mail. Both involve the delivery of physical documents not to
13 a person, but into a drop box or mailbox. As such, Local Rules regulating the Filing Date of
14 Drop Box Documents is instructive:

15 “Before deposit of a document for filing in a drop box, the back side of the last page of
16 the document must be stamped “Received” using the device available at the drop box.

17 (1) The document will be marked by the Clerk as “Filed” on the same date
18 indicated by the “Received” stamp, except when the “Received” date is a
19 weekend or Court holiday, in which case it will be marked as “Filed” on the
20 first day following the weekend or Court holiday.

21 (2) Where the back side of the last page of the document has not been stamped
22 “Received” with the device available at the drop box, the Clerk will mark the
23

1 document as “Filed” on the day the Clerk emptied the drop box of the
2 document.”

3 Civil L.R. 5-5(c). It is clear from the rules that the Court’s intent is to use the date of deposit as
4 the date of filing, as long as the filer uses the court device to stamp “Received” (on a weekday).
5

6 In the instant case, Defendant did not have access to the device so he could not
7 possibly stamp “Received” on the date of deposit, yet it is an undisputable fact that Defendant
8 sent the NOR by USPS Priority Mail, postmarked on February 13, 2018 and delivered on
9 February 15, 2018. Both dates were within 30 days after Defendant was served. Therefore,
10 Defendant’s filing was timely.
11

12 **B. The Date of Entry into the Docket Sheet Is Irrelevant in the Instant Case**

13 The only basis for Plaintiff’s contention that Defendant’s filing was untimely is
14 the docket sheet showing the filing date as February 20, 2018. Apparently, the NOR was not
15 entered into the court system until 5 days after it was delivered to the court (inclusive of a Friday,
16 two weekend days and President’s day), so there was a discrepancy between the date of filing
17 and the date of entry.
18

19 Courts have recognized that filing and entry were distinct events. *See Park v.*
20 *McGowan*, 2011 WL 4963759 *3 (E.D. N.Y. 2011). As one court explained,

21 “[e]ntry” and “filing” are words of art: “Entry” has a well defined meaning ...; it occurs
22 only when ... an appropriate notation on the docket sheet [is] assigned to the action in the
23 district court. Filing, on the other hand, means “the delivery of the thing filed into the
24 actual custody of the proper officer keeping the records of the court. It connotes a deposit
25 for permanent presentation.” *The Washington*, 16 F.2d 206, 208 (2d Cir.1926). “Entry ...
26
27
28

1 is ordinarily synonymous with recording. It connotes a greater duty than, or additional to,
2 that preservation which is the essence of filing.”

3 *Herrera v. First N. Sav. & Loan Ass'n*, 805 F.2d 896, 899 (10th Cir.1986) (citations and
4 paragraph breaks omitted). The Ninth Circuit has also accepted that “[t]he distinction between
5 filing with the clerk and the clerk's entry ... is stated in *The Washington*, 2 Cir., 16 F.2d 206, 207,
6 208.” *J.E. Haddock, Limited, v. Pillsbury*, 155 F.2d 820, 822 (9th Cir.1946).

8 Given the distinction between “filing with the clerk” and “the clerk's entry”, the
9 pivotal question now becomes: which of the two determines the timeliness of filing? The answer
10 is clear and the statute is explicit about that: “The notice of removal of a civil action or
11 proceeding shall be *filed* within 30 days after the receipt by the defendant, through service or
12 otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such
13 action or proceeding is based ...” 28 U.S.C. § 1446(b)(1) (emphasis added).

15 Defendant's NOR was filed and delivered within 30 days after being served.
16 Regardless of whether the court accepts Filing by Mail, “[t]he clerk must not refuse to file a
17 paper solely because it is not in the form prescribed by these rules or by a local rule or practice.”
18 Fed. R. Civ. P. 5(d)(4). The date of entry into the docket sheet is irrelevant. Therefore, Plaintiff's
19 Motion to Remand does not have a valid basis and should be denied.
20

21 **C. The 30-Day Removal Window Under 28 U.S.C. 1446(b)(1) Was Not**
22 **Triggered By The Initial Complaint**

23
24 Even if this Court decides that the date of filing is different from the date of
25 delivery, the filing was timely because the initial complaint did not reveal from its face that this
26 matter was removable, and therefore did not trigger the 30-day removal clock under 28 U.S.C
27 §1446(b)(1).
28

1 An “indeterminate” state court complaint, like Plaintiff’s, does not trigger the
 2 commencement of the “30-day clock.” See Schwarzer, *et al. Federal Civil Procedure Before*
 3 *Trial* (California/Ninth Circuit Edition, The Rutter Group, 2017; “Schwarzer”) § 2:3232
 4 [“grounds for removal” in complaint “must be ‘unequivocally clear and certain’ to start the 30-
 5 day removal period running.”]. The amount at issue is a necessary component of diversity
 6 jurisdiction, §§ 1332(a), 1446(c), Amount In Controversy.

8 Here, no pre-litigation demand was made, the Complaint was silent as to the amount
 9 in controversy, and to this day Defendant has not received any “paper” in this litigation revealing
 10 the amount of damage sought by Plaintiff. Only through his own independent investigation,
 11 Defendant learned that Plaintiff sought damage in the amount of \$4,000,000 in a related lawsuit
 12 (Exhibit C; Yue Compl. ¶ 21) for a similar claim of Unfair Competition. *Yue v. Trigmax*
 13 *Solutions, LLC*, MSC16-01118 (Cal. 2016). Therefore, the 30-day removal window was not
 14 triggered. As Judge Schwarzer explained:

16 [m]ost initial state court complaints are not clearly removable on their face. They may allege
 17 the parties’ residence but rarely allege the parties’ domicile (determinative for diversity
 18 purposes). Also, state court complaints often do not allege the amount in controversy ... *The*
 19 *result is that the initial pleading may not trigger the 30-day removal clock.*

21 TRG §2:3232 (emphasis added). While defendants may wait until a subsequent pleading or paper
 22 discloses removability, Judge Schwarzer noted that they did not have to. TRG § 2:3232. The Ninth
 23 Circuit agrees. *Roth v. CHA Hollywood Medical Center*, *supra*, 720 F. 3d 1121. Even though
 24 defendants were not required to remove within 30 days of its receipt of the complaint, they still
 25 could remove because the fundamental removal statute, § 1441, applied due to diversity of
 26 citizenship and amount in controversy under § 1332. This is precisely what Defendant did here.

1 Plaintiff cites an unreported, little cited, Northern District of Illinois case (a total
2 of 3 court opinions has cited the case since it was decided more than 10 years ago and none of
3 them cited it for arguments related to timeliness.) in support of his motion to remand. However,
4 it is well established under Ninth Circuit precedent that the 30-day trigger for deadline to remove
5 must appear expressly on the face of the complaint without defendant having to engage in guesswork
6 as to the basis for federal jurisdiction. *See Kuxhausen v. BMW Fin. Servs.*, 707 F.3d 1136, 1140-41
7 (9th Cir. 2013) (Plaintiffs who fail to make amount in controversy clear in initial pleadings
8 “assume the costs [of leaving the window for removal open] associated with their own
9 indeterminate pleadings”). Under *Roth v. CHA Hollywood Medical Center*, *supra*, 720 F. 3d 1121,
10 a defendant may remove at any time within one year from commencement of the action, so long
11 as it does not run afoul of Section 1446(b)(1) or 1446(b)(3). The clearest articulation of the rule
12 came from the Court's decision in *Rea v. Michaels Stores Inc.*, 742 F.3d 1234 (9th Cir. 2014), which
13 stated unambiguously that, “as long as the complaint or ‘an amended pleading, motion, order or
14 other paper’ does not reveal that the case is removable, the 30-day time period [under § 1446(b)]
15 never starts to run and the defendant may remove *at any time* [subject to the one year limitation
16 under §1446(c)(1).]” *Id.* at 1237-38 (emphasis added).

20 Defendant removed after Plaintiff filed his original complaint and nothing else
21 had been filed in that lawsuit, Defendant’s removal was not subject to the § 1446(b)(3) limitation
22 on removal upon filing of “amended pleading” or “other papers”. Since Plaintiff’s initial
23 complaint did not reveal from its face that this matter was removable, Defendant was not subject to
24 an initial 30-day window for removal under Section 1446(b)(1). Defendant determined
25 removability through his own investigation, and therefore, under *Roth*, Defendant timely
26 removed the action.
27

IV. CONCLUSION

Plaintiff does not dispute the removability of the case, but merely disputes the timeliness of Defendant's filing of the NOR. However, based on the foregoing reasons, Defendant's NOR should be found to be timely. As such, there is no basis for this Court to remand this case. Defendant respectfully requests that this Court deny Plaintiff's Motion to Remand.

Respectfully submitted,

/s/ Chun-Hui Miao
Chun-Hui Miao
Bian-wang.com
Pro Se

EXHIBIT A

Did you know you can request a refund online for unused Click-N-Ship® labels in your Shipping History?

Click [here](#) to learn more.

Create Label

Preferences

Shipping History

Address Book

Account # 138417

Label Details

Label Number:

9405503699300185545340

Terms

Acceptance Cutoff: 02/13/2018 5:00 PM

Acceptance Time: 02/13/2018 8:09 PM

Scheduled Date: 02/15/2018 12:00 AM

Delivery Status: **Delivered, In/At Mailbox**

Label Actions **2018-02-15 14:47:00.0**

[USPS Tracking®](#)

[Ship Again](#)

Need help

[File an insurance claim](#)

[Request A Service Refund](#)

Return Address:

CHUN-HUI MIAO
1014 GREENE ST
COLUMBIA, SC 29208-4011
miao@moore.sc.edu

Delivery Address:

CLERK OF COURT
UNITED STATES DISTRICT COURT
450 GOLDEN GATE AVE
BOX 36060
SAN FRANCISCO, CA 94102-3661

Package:

Ship Date: 02/13/18
From: 29208

Service:

Priority Mail® 2-Day
Flat Rate Envelope
USPS Tracking®

Transaction Number: **427485237**

Transaction Type: Label

Payment Method: MC-5575

Payment Status: Account Charged

Postage Cost
USPS Tracking®

\$6
F

Label Total: **\$6.70**

Order Total: **\$6.70**

Timestamp	Message
02-13-2018 16:33:15	LABEL PRINTED
02-13-2018 16:33:03	Getting Payment

EXHIBIT B

CHAPTER 5

HOW DO I FILE PAPERS WITH THE COURT?

Once you have drafted your complaint, you must officially file it with the Court in order to begin your lawsuit.

General Rules For Manual Filing

For all methods but electronic filing (“e-filing”), the following rules apply:

1. **File documents in the proper Court division for your case.**

You may file your complaint in any courthouse except Eureka. Thereafter, papers must be filed in the courthouse where the assigned judge holds **chambers**. Refer to “**Intradistrict Assignment**” in Chapter 4 for a more complete explanation.

2. **Have the correct number of copies.**

You should bring the signed original document and two copies of the signed original.

3. **Give the clerk the original document (the one you actually signed) and 2 copies.**

One copy should be marked “CHAMBERS” on the caption page. This chambers copy goes to the judge. The Clerk will stamp and return the third copy to you for your file.

How Do I File Documents?

You can file documents in four different ways:

1. **In-Person Filing:** Bring the signed original document (with two copies) to the Clerk’s Office to file it in person.

a. ***Filing documents in person during normal business hours***

The Clerk’s Office in each division of the court is open from 9:00 a.m. to 4:00 p.m., Monday through Friday, except for federal and other Court holidays.

SAN FRANCISCO: 450 Golden Gate Ave., 16th floor; phone: (415) 522-2000

OAKLAND: 1301 Clay St., Suite 400 South; phone: (510) 637-3530

SAN JOSE: 280 South First St.; phone: (408) 535-5363

The Eureka courthouse does not accept documents for filing. Documents for filing in cases assigned to the Eureka division should be filed at the San Francisco Clerk’s Office.

When you file a document, the Clerk’s Office will stamp it with the filing date. Your copy marked “CHAMBERS” will go to the judge. The other will be handed back to you.

b. ***Filing documents in person after hours using the drop box***

You can file your documents in person even if you cannot go to the Clerk’s Office between 9:00 a.m. and 4:00 p.m. The Clerk’s Office maintains a **drop box** that can be used to file most documents before and after regular business hours. See Civil Local Rule 5-3. The drop boxes are open Monday through Friday at the hours below, except on federal holidays:

SAN FRANCISCO: 6:00–9:00 a.m. & 4:00–6:00 p.m. next to the Clerk’s Office, 16th floor

OAKLAND:..... 7:00–9:00 a.m. & 4:00–5:00 p.m. first floor lobby

San Jose: 7:30–9:00 a.m. & 4:00–5:00 p.m. next to the Clerk’s Office, 2nd floor

Important Rules for Using the Drop Box

- i. Before putting a document in the drop box, ***follow the instructions that are posted next to the drop box*** explaining how to date-stamp, label and identify your documents.
- ii. To receive a file-stamped copy back from the Court, provide an extra copy of the document with a self-addressed, stamped envelope, or an envelope marked “FOR MESSENGER PICKUP BY: [name the person who will be picking up the copy].”

- iii. The drop box may not be used to file any papers regarding a matter that is scheduled for hearing within 7 calendar days.
 - iv. If you use the drop box to file a complaint, you must include a check or money order for the current **filing fee**, made payable to “Clerk, United States District Court.” Do not enclose cash. You do not need to include payment if you are filing a fee waiver with your complaint.
2. **Fax Filing:** Although this Court will accept fax copies for filing, you cannot fax the documents directly to the Court. Instead, you fax the documents to a “fax filing service” that, for a fee, files your documents in person at the Clerk’s Office. Civil Local Rule 5-2 provides detailed rules. To find a fax filing service, consult resources such as www.rapidlegal.com.
- a. You should direct the fax filing service to give the Court a marked “CHAMBERS” copy of the faxed document for the judge.
 - b. When you file a document by fax, keep the original document and a record of the fax transmission in your file until the end of the case.
3. **Filing by Mail:** Mail the signed original document and a chambers copy to the Court for filing. To obtain a file-stamped copy by return mail, you must provide an extra copy with a self-addressed, stamped envelope.

SAN FRANCISCO:

Clerk’s Office
 United States District Court
 450 Golden Gate Ave., 16th Fl.
 San Francisco, CA 94102

OAKLAND:

Clerk’s Office
 United States District Court
 1301 Clay St., Ste 400 South
 Oakland, CA 94612

SAN JOSE:

Clerk’s Office
 United States District Court
 280 South 1st Street
 San Jose, CA 95113

The **Eureka** courthouse does not accept documents for filing. Paper filings for cases assigned to the Eureka division should be mailed to the San Francisco Clerk’s Office.

4. **E-Filing:** E-filing is the process of using the internet to file documents with the Court and serve them on other parties from your computer. It offers many advantages, including convenient access to Court records, saving time, postage expenses and administrative work.

Pro se litigants must get prior permission from the Court in order to join the e-filing system. If you receive permission, you can file documents in your case online at the Court’s Electronic Case Filing (ECF) website and view case dockets and documents through the Public Access to Court Electronic Records (PACER) website, pacer.gov. More details about e-filing can be found in Chapter 9.

How Is Filing A Complaint Different From Other Papers?

When filing a complaint, you must:

1. **Fill out a Civil Cover Sheet.** Obtain a copy of the form at the Clerk’s Office or at the Court’s website (cand.uscourts.gov/civilforms). Instructions for filling out the Civil Cover Sheet are on the form. You can also visit the federal courthouse Legal Help Center for assistance (Chapter 2).
2. **File the original complaint plus two copies.** (If your complaint contains claims relating to patents, copyrights, or trademarks, you must file the original complaint plus three copies.)
3. **Arrive at the Clerk’s Office before 3:30 p.m.** because it takes more time for the Clerk to file complaints than other documents.
4. **Pay \$400.00 to file your complaint (or, if you cannot afford the filing fee, see the next section).** After the initial complaint is filed, you do not have to pay any additional fees to file most documents with the Court (unlike state court). The Clerk’s Office accepts payment in cash (exact change required), check or money order made payable to “Clerk, U.S. District Court,” or credit card (Visa, MasterCard, American Express or Discover Card; credit card payments must be made in person).

What If I Can’t Afford The \$400.00 Fee For Filing A New Complaint?

If you cannot afford the filing fee, you may file an **Application to Proceed In Forma Pauperis** (“IFP”). You can get this form at either the Clerk’s Office or at the Court’s website (cand.uscourts.gov/civilforms). Note that there is a special form for prisoners. In both cases, you will have to tell the Court information about your

EXHIBIT C

1 20. The defamatory blog postings against Plaintiff continued on BIAN-WANG.COM
2 in 2016, and Miao actively participated in and encouraged such activities by posting comments
3 echoing the indecent language under those blogs.

4 21. On June 13, 2016, Plaintiff commenced the action against Trigmax Solutions, LLC,
5 et al. in the Superior Court of California for the County of Contra Costa (the "Court"), alleging
6 unfair competition and defamation. The case number is C16-01118.
7

8 22. On October 14, 2016, the Court issued a subpoena to CHUN-HUI MIAO for the
9 information of several users who posted libel against Plaintiff on Miao's website.

10 23. On October 25, 2016, Plaintiff's process server served the subpoena reissued by the
11 court of Common Pleas of Richland County, South Carolina, on Miao at his office. Still, Miao
12 refused to comply with the subpoena and ignored Plaintiff's subsequent request for a telephone
13 conference about the subpoena.
14

15 24. On December 15, 2016, Plaintiff posted a notice to Miao on bian-wang.com,
16 requesting Miao to delete all posts that contain Plaintiff's name in the subject or comments, in
17 accordance of the aforementioned Rule No. 2.

18 25. Miao refused to delete the posts. Instead, Miao launched a round of verbal insults
19 on Plaintiff. Plaintiff informed Miao that the BIAN's rule is a contract between the Miao and
20 Plaintiff, and that Miao should perform under that contract as an honorable man. Plaintiff
21 repeatedly requested Miao perform his duty under the contract and delete the offending posts.
22

23 26. Miao did not deny the contract. After Plaintiff pointed out that he must perform the
24 contract, Miao changed the rule, by adding a clause titled "Statute of limitations", stating one must
25 report under Rule No.2 within a year.
26
27
28

CIV-050

- DO NOT FILE WITH THE COURT -**-UNLESS YOU ARE APPLYING FOR A DEFAULT JUDGMENT UNDER CODE OF CIVIL PROCEDURE § 585 -**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): DONGXIAO YUE 111 DEERWOOD RD, STE 200 SAN RAMON, CA 94583		TELEPHONE NO.: 510 3960012	FOR COURT USE ONLY
ATTORNEY FOR (name): PRO PER			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF CONTRA COSTA STREET ADDRESS: 725 COURT STREET MAILING ADDRESS: WAKEFIELD TAYLOR COURTHOUSE CITY AND ZIP CODE: MARTINEZ, CA 94553 BRANCH NAME:			
PLAINTIFF: DONGXIAO YUE DEFENDANT: [REDACTED] et al.			
STATEMENT OF DAMAGES (Personal Injury or Wrongful Death)			CASE NUMBER: C16-01118

To (name of one defendant only): [REDACTED]
 Plaintiff (name of one plaintiff only): **DONGXIAO YUE**
 seeks damages in the above-entitled action, as follows:

- | | AMOUNT |
|---|--------------|
| 1. General damages | |
| a. ☒ Pain, suffering, and inconvenience | \$250,000.00 |
| b. ☒ Emotional distress | \$250,000.00 |
| c. ☐ Loss of consortium | \$ |
| d. ☐ Loss of society and companionship (wrongful death actions only) | \$ |
| e. ☒ Other (specify) <u>Defamation Damages-reputation, mortification, hurt feelings, etc</u> | \$500,000.00 |
| f. ☒ Other (specify) <u>Damages to business, trade, profession, occupation</u> | \$500,000.00 |
| g. ☐ Continued on Attachment 1.g. | |
| 2. Special damages | |
| a. ☐ Medical expenses (to date) | \$ |
| b. ☐ Future medical expenses (present value) | \$ |
| c. ☐ Loss of earnings (to date) | \$ |
| d. ☐ Loss of future earning capacity (present value) | \$ |
| e. ☐ Property damage | \$ |
| f. ☐ Funeral expenses (wrongful death actions only) | \$ |
| g. ☐ Future contributions (present value) (wrongful death actions only) | \$ |
| h. ☐ Value of personal service, advice, or training (wrongful death actions only) | \$ |
| i. ☐ Other (specify) | \$ |
| j. ☐ Other (specify) | \$ |
| k. ☐ Continued on Attachment 2.k. | |
| 3. ☒ Punitive damages: Plaintiff reserves the right to seek punitive damages in the amount of (specify) .. \$ \$2,500,000.00
when pursuing a judgment in the suit filed against you. | |

Date: October 20, 2016

DONGXIAO YUE

(TYPE OR PRINT NAME)

(Proof of service on reverse)

(SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

Page 1 of 2