

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

CHARLESTON DIVISION

TRADEMARK PROPERTIES, INC., a)
South Carolina corporation; RICHARD C.)
DAVIS, an individual,)
)
Plaintiffs,)

Civil Action No. 2:06-cv-2195-CWH

vs.)

AMENDED NOTICE OF REMOVAL

A&E TELEVISION NETWORKS, a joint)
venture of the Hearst Corporation, ABC,)
Inc. and NBC Universal; DEPARTURE)
FILMS, an entity of unknown origin; and)
DOES 1-20, Inclusive,)
)
Defendants.)

_____)
A&E TELEVISION NETWORKS,)
)
)
Counterclaim Plaintiff,)

vs.)

TRADEMARK PROPERTIES, INC. and)
RICHARD C. DAVIS,)
)
Counterclaim Defendants.)

Defendants A&E Television Networks (“AETN”) and Max Weissman Productions, Inc. d/b/a Departure Films (incorrectly sued, and referred to hereinafter, as “Departure Films”), through this Amended Notice of Removal, hereby give notice of the removal of

this action from the Court of Common Pleas, Ninth Judicial Circuit, County of Charleston, South Carolina, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446.

1. On July 20, 2006, plaintiffs filed an action captioned *Trademark Properties, Inc. and Richard C. Davis v. A&E Television Networks, Departure Films and Does 1-20*, Case No. 06-CP-10-2822, in the Court of Common Pleas, Ninth Judicial Circuit, County of Charleston, South Carolina. Copies of the summons and complaint are attached hereto as Exhibit A.

2. Defendant AETN received a copy of the complaint via certified mail on July 24, 2006.

3. Other than a summons and complaint, no other pleadings, process or orders have been filed in the state court action. Defendants did not respond to the complaint in state court.

4. Federal jurisdiction exists on grounds of diversity under 28 U.S.C. § 1332(a)(1).

a. This controversy is between citizens of different states. Plaintiffs are citizens of South Carolina and defendants are citizens of New York and Delaware:

- i. Plaintiff Trademark Properties, Inc. is a citizen of South Carolina, *i.e.*, a corporation organized and existing pursuant to the laws of the State of South Carolina, with its principal place of business in Charleston, South Carolina. *See* Complaint ¶ 1.
- ii. Plaintiff Richard C. Davis is a citizen of South Carolina, *i.e.*, an individual residing in Charleston, South Carolina. *See* Complaint ¶ 2.
- iii. Defendant AETN is a general partnership duly organized and existing under the laws of the State of New York, with its principal place of business located in New York, New York.

See Complaint ¶ 3. The interests in the partnership are held by three entities -- Hearst Communications, Inc., Disney/ABC International Television, Inc. and NBC-A&E Holding, Inc. -- each of which is a citizen of Delaware and of New York, i.e., a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business located in New York.

- iv. Defendant Departure Films is a citizen of New York, *i.e.*, a corporation organized and existing pursuant to the laws of the State of New York, with its principal place of business located in New York, New York. *See* Complaint ¶ 4.
- v. The citizenship of fictitious defendants Does 1-20 is ignored for removal purposes. *See* 28 U.S.C. § 1441(a).

b. The amount in controversy exceeds \$75,000, exclusive of interest and costs. Plaintiffs demand damages in “excess of a million dollars.” *See* Complaint at 20-21. Plaintiffs also demand injunctive relief, *id.* at 19-20, ¶¶ 60-64, and defendants aver that the value of the injunctive relief being sought would be in excess of \$75,000.

5. Defendants previously filed a Notice of Removal on August 2, 2006. This amended Notice adds a description of the citizenship of the partners of AETN, but is otherwise identical in substance to the previously filed Notice.

6. Both the original Notice of Removal and this Amended Notice of Removal are timely because they have been filed within thirty days after AETN’s receipt of the complaint on July 24, 2006, which was “the initial pleading setting forth the claim for relief upon which [the] action ... is based.” 28 U.S.C. § 1446(b).

7. Pursuant to 28 U.S.C. § 1446(d), a copy of this Amended Notice of Removal is being filed with the Clerk of the Court of Common Pleas, Ninth Judicial Circuit, County of Charleston, South Carolina, and is being served on plaintiffs.

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August 8, 2006

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Motions for admission *pro hac**vice* to be filed