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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

HERITAGE BUILDERS LLC,

Plaintiff,

v.

GAF MATERIALS LLC A/K/A GAF
ROOFING A/K/A GAF CORPORATION
A/K/A GAF MATERIALS CORPORATION
A/K/A GAF ROOFING MANUFACTURING
CORPORATION, GAF ENERGY LLC,
STANDARD INDUSTRIES, INC., ED
SMALL, PETER SMYTH, and JOHN DOE
NOS. 1-50,

Defendants.

Civil Action No. _____

NOTICE OF REMOVAL

Document Electronically Filed

Defendants GAF Materials LLC a/k/a GAF Roofing a/k/a GAF Corporation a/k/a GAF Materials Corporation a/k/a GAF Roofing Manufacturing Corporation (“GAF Materials”), GAF Energy LLC (“GAF Energy”), Ed Small, Peter Smyth (collectively, the “GAF Defendants”), and Standard Industries, Inc. (together with the GAF Defendants, “Defendants”), by and through their undersigned attorneys, give notice of the removal of this action from the New Jersey Superior Court, Law Division, Morris County, to the United States District Court for the District of New Jersey, Newark Vicinage, pursuant to 28 U.S.C. §§ 1331, 1441, and 1446.

I. INTRODUCTION

On March 11, 2026, plaintiff Heritage Builders LLC (“Plaintiff”) filed a civil action captioned *Heritage Builders LLC v. GAF Roofing a/k/a GAF Corporation a/k/a GAF Materials Corporation a/k/a GAF Roofing Manufacturing Corporation, et al.*, Docket No. MRS-L-595-26 in New Jersey Superior Court, Law Division, Morris County. (A copy of the initial Complaint is attached hereto as Exhibit A.) The initial complaint did not assert causes of action that arise under federal law.

On March 31, 2026, counsel filed a stipulation acknowledging service of the initial complaint and extending the time to answer. (A copy of the March 31, 2026 stipulation is attached hereto as Exhibit B.) On May 15, 2026, counsel filed a subsequent stipulation that extended the time to answer to August 17, 2026. (A copy of the May 15, 2026 stipulation is attached as Exhibit C.)

On June 12, 2026, Plaintiff filed an Amended Complaint that named GAF Energy as an additional defendant, removed plaintiff John Does, and asserted a cause of action under the federal Sherman Act, 15 U.S.C. §§ 1, *et seq.* (the “Sherman Act”). (A copy of the Amended Complaint is attached hereto as Exhibit D.) The Amended Complaint asserts that the GAF Defendants orchestrated a price-fixing scheme regarding the minimum cost of roofing installation in the State of New Jersey through GAF Materials’ creation and management of a roofing contractor certification program. Ex. B ¶¶ 1-4.

On June 18, 2026, the Honorable Patricia J. O’Dowd, J.S.C. granted Plaintiff’s applications to admit Alec S. Soghomonian, Esq., Andrew P. Steinmetz, Esq., and Jenny Kim, Esq. *pro hac vice* in the state court action. (Copies of the orders are attached as Exhibit E.)

The Amended Complaint asserts causes of action for: (i) violation of Section 1 of the

Sherman Act; (ii) breach of contract; (iii) breach of the implied covenant of good faith and fair dealing; (iv) tortious interference; (v) violation of the New Jersey Consumer Fraud Act, N.J. Stat. Ann. §§ 56:8-1, *et seq.*; (vi) fraud in the inducement; and (vii) promissory estoppel. Pursuant to 28 U.S.C. § 1331, the Sherman Act claim arises under federal law.

II. THIS ACTION IS REMOVABLE BECAUSE IT PRESENTS A FEDERAL QUESTION

This action is removable under 28 U.S.C. § 1441 because this Court would have had original jurisdiction under 28 U.S.C. § 1331 if Plaintiff had filed the Amended Complaint initially in federal court. Plaintiff asserts that the GAF Defendants orchestrated a price-fixing conspiracy, combination, or contract in violation of Section 1 of the Sherman Act. This cause of action arises under federal law because “federal law create[d] the cause of action asserted.” *Gunn v. Minton*, 568 U.S. 251, 257 (2013) (citations omitted). Accordingly, the Amended Complaint may be removed to this Court.

Additionally, to the extent the Amended Complaint asserts state common law or other non-federal claims, this Court has supplemental jurisdiction over any such claims under 28 U.S.C. § 1367(a) because such claims arise out of the same operative facts as the Sherman Act claim and form part of the same case or controversy at issue in this action.

III. SERVICE OF COMPLAINT AND TIMELINESS OF REMOVAL

On June 12, 2026, counsel for Defendants obtained a copy of the Amended Complaint via electronic filing and electronic mail. (A copy of Plaintiff’s counsel’s email providing a copy of the Amended Complaint is attached hereto as Exhibit F without attachments.)

The Amended Complaint was the first “pleading, motion, order or other paper from which it may first be ascertained that the case is one which . . . has become removable.” 28 U.S.C. § 1446(b)(3). The “case stated by the initial pleading” was not removable. *Id.* Unlike the Amended

Complaint, it contained no federal claim, so federal question jurisdiction under 28 U.S.C. § 1331 did not lie. The initial Complaint also did not support diversity jurisdiction under 28 U.S.C. § 1332(a), because it did not disclose Plaintiff's citizenship, only describing it as an LLC and a "New Jersey General Contractor." Ex. A ¶ 1. It is black-letter law that "the citizenship of an LLC is determined by the citizenship of its members," not its physical location. *Zambelli Fireworks Mfg. Co., Inc. v. Wood*, 592 F.3d 412, 420 (3d Cir. 2010). Moreover, even if the reference to Plaintiff being a "New Jersey General Contractor" should have been understood as an allegation of New Jersey citizenship, diversity jurisdiction would still be lacking because at least Defendant Peter Smyth is a New Jersey citizen.

Accordingly, the initial Complaint was not removable, and because this Notice is being filed within 30 days of Defendants' receipt of the Amended Complaint, Fed. R. Civ. P. 6(a)(1)(C), removal is timely under 28 U.S.C. § 1446(b)(3).

IV. VENUE OF REMOVED ACTION

The United States District Court for the District of New Jersey, Newark Vicinage, is the United States District Court and vicinage embracing the Superior Court of New Jersey, Law Division, Morris County, where this action was filed and is pending. Therefore, venue is proper in the United States District Court for the District of New Jersey, Newark Vicinage, under 28 U.S.C. § 1441(a).

V. NOTICE TO PLAINTIFF AND TO THE STATE COURT

A copy of this Notice of Removal is being contemporaneously served on Plaintiff and filed with the New Jersey, Law Division, Morris County, where this case was originally filed and is currently pending pursuant to 28 U.S.C. § 1446(d).

VI. NON-WAIVER OF DEFENSES

Defendants expressly reserve all defenses. By removing this action to this Court, Defendants do not waive any rights or defenses available under federal or state law and expressly reserve the right to move to dismiss the Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b). Nothing in this Notice of Removal should be taken as an admission that Plaintiff's allegations are sufficient to state a claim against Defendants or that they have any substantive merit.

Undersigned counsel states that this removal is well grounded in fact, warranted by existing law, and not interposed for an improper purpose.

WHEREFORE, Defendants respectfully request that this action be removed to the United States District Court for the District of New Jersey, Newark Vicinage, and that no further proceedings be held in the New Jersey Superior Court, Law Division, Morris County.

Respectfully submitted,

SILLS CUMMIS & GROSS, P.C.
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Dated: July 10, 2026

CERTIFICATE OF SERVICE

On July 10, 2026, I caused a true and correct copy of the foregoing Notice of Removal with exhibits to be electronically filed with the Court via CM/ECF; served on all counsel of record for Plaintiff; and filed with the Clerk of the Superior Court of New Jersey, Law Division, Morris County.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 10, 2026.

s/ Jaimee Katz Sussner
Jaimee K. Sussner