

**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

| | | |
|-----------------|---|---------------------------------|
| MARK WALTERS |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Civil Action No. 1:23-cv-03122- |
| |) | MLB |
| OpenAI, L.L.C., |) | |
| |) | |
| Defendant. |) | |
| |) | |

**DEFENDANT OPENAI’S RESPONSE TO ORDER TO SHOW
CAUSE REGARDING DIVERSITY JURISDICTION**

Defendant OpenAI, L.L.C. (“OpenAI”), through its undersigned counsel, files this Response to the Court’s Order to Show Cause Regarding Diversity Jurisdiction (“Response”) and in support thereof respectfully states as follows:

I. RELEVANT PROCEDURAL HISTORY

1. On July 14, 2023, OpenAI filed a Notice of Removal in this Court. ECF No. 1. OpenAI subsequently filed a Notice of Member Citizenship (ECF No. 11) on July 21, 2023.

2. On August 7, 2023, this Court entered an order directing OpenAI “to show cause, no later than August 21, 2023, why this case should not be remanded for lack of subject matter jurisdiction.”

II. REQUIREMENTS FOR DIVERSITY JURISDICTION

3. Pursuant to 28 U.S.C. § 1332(a)(1), “The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . Citizens of different States.” Here, both requirements are satisfied.

III. THE REQUISITE AMOUNT IN CONTROVERSY IS SATISFIED

4. When “the plaintiff’s complaint does not state the amount in controversy, the defendant’s notice of removal may do so” by providing a “short and plain” statement of the amount in controversy. *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 84 (2014) (citing 28 U.S.C. § 1446(c)(2)(A)).

5. Although Plaintiff Mark Walters (“Plaintiff”) did not state the amount in controversy in his Complaint, the categories of damages Plaintiff seeks—general damages, punitive damages, and attorneys’ fees—make clear that the amount in controversy at the time of removal was in excess of the required jurisdictional threshold.

6. In addition, on July 6, 2023, prior to the date of removal, Plaintiff, through his counsel, provided OpenAI with a settlement demand that exceeds \$75,000, which further demonstrates that the amount in controversy at the time of removal exceeded the jurisdictional threshold. *See Smiley v. Crete Carrier Corp.*,

No. 20-03643, 2021 U.S. Dist. LEXIS 262873, at *5 (N.D. Ga. Jan. 25, 2021) (“Settlement offers are considered documents that may serve as evidence of the amount in controversy.” (citing *Lowery v. Ala. Power Co.*, 483 F.3d 1184, 1213 (11th Cir. 2007))).

7. Furthermore, on August 8, 2023, Plaintiff’s counsel confirmed in writing that the amount in controversy exceeds \$75,000. *See* Aug. 8, 2023 Email from Monroe to Krasinski, attached as **Exhibit A** (“Brendan, yes, I agree the amount in controversy exceeds \$75,000.”).

IV. COMPLETE DIVERSITY EXISTS BETWEEN THE PARTIES

8. As set forth in paragraph 1 of the Complaint, Plaintiff is a resident of and domiciled in Georgia and is therefore a citizen of Georgia for diversity purposes. Compl. (ECF No. 1-1) ¶ 1.

9. As described more fully below, OpenAI, L.L.C. is a citizen of Alaska, Arizona, California, Colorado, Connecticut, the District of Columbia, Delaware, Florida, Illinois, Massachusetts, Maryland, Michigan, North Dakota, New Jersey, Nevada, New York, Oregon, Pennsylvania, Texas, Virginia, and Washington, and of other countries. OpenAI, L.L.C. is *not* a citizen of Georgia for purposes of diversity jurisdiction. Accordingly, complete diversity exists between the parties.

10. OpenAI, L.L.C. is organized under the laws of the State of Delaware and maintains its principal place of business in California.

11. OpenAI, L.L.C.'s sole member is OpenAI OpCo, LLC. OpenAI OpCo, LLC is organized under the laws of Delaware and maintains its principal place of business in California. OpenAI OpCo, LLC's sole member is OpenAI Global, LLC.

12. OpenAI Global, LLC is organized under the laws of Delaware and maintains its principal place of business in California. OpenAI Global, LLC has two members:

a. Microsoft Corporation, which is incorporated under the laws of Washington and maintains its principal place of business in Washington. Accordingly, both Microsoft Corporation and OpenAI, L.L.C. are citizens of Washington.

b. OAI Corporation, LLC, which is organized under the laws of Delaware and maintains its principal place of business in California. OAI Corporation, LLC's sole member is OpenAI Holdings, LLC.

13. OpenAI Holdings, LLC is organized under the laws of Delaware and maintains its principal place of business in California. Its members are:

a. OpenAI, Inc., which is incorporated under the laws of Delaware and maintains its principal place of business in California. Accordingly, both OpenAI, Inc. and OpenAI, L.L.C. are citizens of Delaware and California.

b. Aestas, LLC, which is organized under the laws of Delaware and maintains its principal place of business in California. Aestas, LLC's sole member is Aestas Management Company, LLC.

c. Members who are citizens of California and Michigan, or are citizens of other countries.

14. Aestas Management Company, LLC is organized under the laws of Delaware and maintains its principal place of business in California. Aestas Management Company, LLC's members are citizens of Alaska, Arizona, California, Colorado, Connecticut, the District of Columbia, Delaware, Florida, Illinois, Massachusetts, Maryland, Michigan, North Dakota, New Jersey, Nevada, New York, Oregon, Pennsylvania, Texas, Virginia and Washington, or are citizens of other countries, but not Georgia.

15. Because Plaintiff *is a citizen of Georgia* and OpenAI is a citizen of Alaska, Arizona, California, Colorado, Connecticut, the District of Columbia, Delaware, Florida, Illinois, Massachusetts, Maryland, Michigan, North Dakota, New Jersey, Nevada, New York, Oregon, Pennsylvania, Texas, Virginia, and

Washington, and a citizen of other countries—but is *not a citizen of Georgia*—complete diversity exists between Plaintiff and OpenAI.

WHEREFORE, for the foregoing reasons, the amount in controversy exceeds \$75,000, exclusive of interests and costs, and complete diversity exists between Plaintiff and Defendant in this litigation. Accordingly, this Court has subject matter jurisdiction over the action pursuant to 28 U.S.C. § 1332(a)(1).

Dated: August 21, 2023

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Respectfully submitted,

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Attorneys for Defendant OpenAI, L.L.C.

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing Defendant OpenAI's Response to Order to Show Cause Regarding Diversity Jurisdiction was prepared with Times New Roman, 14-point font, in accordance with LR 5.1(B).

Dated: August 21, 2023

By: /s/ Brendan Krasinski
Brendan Krasinski

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| OpenAI, L.L.C., |) | |
| |) | |
| Defendant. |) | |
| |) | |

CERTIFICATE OF SERVICE

I hereby certify that, on this 21st day of August 2023, I caused the foregoing Defendant OpenAI’s Response to Order to Show Cause Regarding Diversity Jurisdiction to be electronically filed with the Clerk of Court using the CM/ECF system, which will send e-mail notification of such filing to all attorneys of record.

Dated: August 21, 2023

By: /s/ Brendan Krasinski
Brendan Krasinski