



1331 and, accordingly, it is one which may be removed to this Court pursuant to 28 U.S.C. § 1441(a).

4. Based on the allegations in the Verified Complaint, the transportation out of which the subject matter of this action arose was “international carriage” within the meaning of a treaty of the United States known as the Montreal Convention. Convention for the Unification of Certain Rules Relating to International Carriage by Air, Done at Montreal, Canada, on 28 May 1999, reprinted in S. Treaty Doc. 106-45, CCH Av. L. Rep. ¶ 27,400-59, 1999 WL 33292734 (1999). Accordingly, the rights and liabilities of the parties to this action are governed exclusively by the provisions of the Montreal Convention.

5. Because this action arises under a treaty of the United States, the action may be removed to this Court pursuant to 28 U.S.C. §§ 1331 and 1441(a).

6. Alternatively, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 based upon diversity of citizenship because Plaintiff is a citizen of New York, Avianca is a foreign corporation duly organized and existing under the laws of Colombia, and, upon information and belief, the amount in controversy exceeds \$75,000, exclusive of interest and costs.

7. Pursuant to 28 U.S.C. § 1446(a), this Notice of Removal is filed in the United States District Court for the Southern District of New York, which is the District in which the state court action is pending.

8. This Notice of Removal is timely filed with this Court pursuant to 28 U.S.C. § 1441(d).

9. Avianca will promptly provide all parties with written notice of the filing of this Notice of Removal and shall file a copy of the Notice of Removal with the Clerk of the Supreme Court of the State of New York, New York County, as required by 28 U.S.C. § 1446(d).

WHEREFORE, defendant AVIANCA, INC., prays that this action now pending in the Supreme Court of the State of New York for New York County be removed therefrom to this Court.

Dated: February 22, 2022  
New York, New York

Respectfully submitted,

CONDON & FORSYTH LLP

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