

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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WEATHERFORD SWITZERLAND TRADING  
AND DEVELOPMENT GMBH, solely in its  
capacity as Administrative Agent of a certain  
indenture dated as of June 28, 2016, and  
WEATHERFORD LATIN AMERICA, S.C.A.,

Plaintiffs,

v.

PETRÓLEOS DE VENEZUELA, S.A. and  
PDVSA PETRÓLEO, S.A.,

Defendants.

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Docket No.: 1:23-cv-10703

New York County Index No.:  
655434/2023

**NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that defendants Petróleos de Venezuela, S.A. (“PDVSA”) and PDVSA Petróleo, S.A. (“Petróleo”) (together, “Defendants”), by their counsel, hereby remove this action from the Supreme Court of the State of New York, New York County, to the United States District Court for the Southern District of New York, pursuant to 28 U.S.C. §§ 1441 and 1446. The grounds for removal are as follows:

1. Plaintiffs Weatherford Latin America, S.C.A. (“Weatherford Latin America”) and Weatherford Switzerland Trading and Development GmbH (“Weatherford GmbH”) (together “Plaintiffs”) commenced this action by filing a summons and motion for summary judgment in lieu of a complaint, pursuant to section 3213 of the New York Civil Practice Law and Rules,<sup>1</sup> on or about November 1, 2023 in the Supreme Court of the State of New York, New York County,

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<sup>1</sup> CPLR 3213 provides that “[w]hen an action is based upon an instrument for the payment of money only or upon any judgment, the plaintiff may serve with the summons a notice of motion for summary judgment and the supporting papers in lieu of a complaint.”

Index No. 655434/2023. Plaintiffs seek money damages against Defendants for PDVSA's alleged default under a note agreement, which was guaranteed by Petróleo.

2. Defendants PDVSA and Petróleo are wholly-owned instrumentalities of the Republic of Venezuela. On January 23, 2019, Juan Guaidó, the President of the National Assembly, was declared Interim President of Venezuela by the National Assembly pursuant to Article 233 of the Venezuelan Constitution. The same day, the U.S. President declared the Maduro regime "illegitimate" and officially recognized "Guaidó, as the Interim President of Venezuela" and the National Assembly as the "only legitimate branch of government duly elected by the Venezuelan people." Guaidó subsequently appointed the PDVSA Ad-Hoc Board, which the National Assembly ratified. The United States continues to recognize the National Assembly as the only legitimate democratically elected body of Venezuela. *See* 22 U.S.C. § 9702. The undersigned counsel is authorized by the PDVSA Ad-Hoc Board—appointed by the legitimate National Assembly government—to appear on behalf of Defendants and to file this Notice of Removal.

3. According to the certificates of service Plaintiffs filed on the State Court docket, both PDVSA and Petróleo were served with copies of the summons and motion for summary judgment in lieu of a complaint through their registered agent, Corporation Service Company, on November 7, 2023.

4. To the best of undersigned counsel's knowledge, Defendants have not received copies of any materials purported served on Corporation Service Company. Copies of all pleadings and orders filed on the State Court docket are annexed hereto as **Exhibits A-N**.

### **REMOVAL OF AN ACTION AGAINST A FOREIGN STATE**

5. This case is removable pursuant to 28 U.S.C. § 1441(d), which provides that “[a]ny civil action brought in a State court against a foreign state as defined in section 1603(a) of this title may be removed by the foreign state to the district court of the United States for the district and division embracing the place where such action is pending.”

6. A “foreign state” “includes . . . an agency or instrumentality of a foreign state,” which is defined as an entity “(1) which is a separate legal person, corporate or otherwise, and (2) which is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and (3) which is neither a citizen of a State of the United States . . . , nor created under the laws of any third country.” 28 U.S.C. § 1603.

7. Defendant PDVSA is a capital stock corporation (sociedad anónima) organized under the laws of the Bolivarian Republic of Venezuela (“Venezuela”) that is wholly-owned by Venezuela and is not a citizen of the United States.

8. Defendant Petróleo is a capital stock corporation (sociedad anónima) organized under the laws of Venezuela that is wholly-owned by PDVSA.

9. Defendants are thus foreign states, as defined by 28 U.S.C. § 1603, which are entitled to invoke the rights conferred by the Foreign Sovereign Immunities Act and to remove this action pursuant to 28 U.S.C. § 1441(d).

### **PROCEDURAL REQUIREMENTS**

10. The procedural requirements set forth in 28 U.S.C. § 1446 have been satisfied.

11. Section 1446(a) requires the removing party to file a notice of removal “in the district court of the United States for the district and division within which such action is

pending,” which Defendants satisfy with the filing of this Notice of Removal. The United States District Court for the Southern District of New York embraces the county in which the state court action is now pending.

12. Section 1446(a) also requires the removing party to provide a copy to the district court of all process, pleadings, and orders served on the defendants in the state action, which Defendants satisfy by attaching these documents to this Notice of Removal as Exhibit A.

13. Under Section 1446(b)(1), notice of removal must be filed within thirty (30) days the defendant’s receipt of the initial pleading. According to Plaintiffs’ proofs of service filed in the State Court, Defendants were each served with the motion for summary judgment in lieu of a complaint (the initial pleading) on November 7, 2023. This Notice of Removal, therefore, is timely. Additionally, Section 1441(d) provides “the time limitations of section 1446(b) of this chapter may be enlarged at any time for cause shown,” which cause would exist here—were removal not filed within 30 days—as Defendants were only made aware of this action on December 6, 2023 when Defendants’ counsel was contacted by Plaintiffs’ counsel.

14. Under Section 1446(d), written notice of removal must be promptly provided to all adverse parties, and a copy of the notice of removal must be filed with the clerk of the state court. Defendants’ undersigned counsel is serving a copy of this Notice of Removal on Plaintiffs’ counsel and is filing a copy with the Clerk of the Supreme Court of the State of New York, New York County.

15. By filing this Notice of Removal, Defendants do not waive any rights, privileges, or defenses.

WHEREFORE, notice is given that this action is removed from the Supreme Court of the State of New York, New York County, to the United States District Court for the Southern District of New York.

Dated: December 7, 2023  
New York, New York

**PAUL HASTINGS LLP**

*s/ Kurt W. Hansson* \_\_\_\_\_

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*Counsel for Defendants Petróleos de Venezuela, S.A. and PDVSA Petróleo, S.A.*

**CERTIFICATE OF SERVICE**

I certify that I have this day served a copy of the foregoing Notice of Removal on all parties  
via electronic mail and overnight mail to counsel for Plaintiffs:

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*s/ Kurt W. Hansson*

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