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Conagra Brands, Inc. and
ConAgra Foods Packaged Foods LLC

**UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

HILDA ALVAREZ, individually
and on behalf of all others similarly
situated,

Plaintiff,

v.

CONAGRA BRANDS, INC., a
Delaware corporation; CONAGRA
FOODS PACKAGED FOODS,
LLC., a Delaware limited liability
company; and DOES 1 through 50,
inclusive,

Defendants.

Case No.:

**NOTICE OF REMOVAL OF ACTION
TO THE UNITED STATES DISTRICT
COURT FOR THE CENTRAL
DISTRICT OF CALIFORNIA
PURSUANT TO THE CLASS ACTION
FAIRNESS ACT, 28 U.S.C. §§ 1332, 1441
AND 1446; DECLARATION OF
JENNIFER HINDS**

(Filed concurrently with the Notice of
Interested Parties; Notice of Pendency of
Other Action; and the Civil Cover Sheet)

1
2 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

3 PLEASE TAKE NOTICE that Defendants Conagra Brands, Inc. (“Conagra”)
4 and ConAgra Foods Packaged Foods LLC (“CFPF”) (collectively “Defendants”)
5 by and through their counsel, invoke this Court’s jurisdiction under the provisions
6 of 28 U.S.C. §§ 1332 (as amended by the Class Action Fairness Act 2005, Pub. L.
7 No. 109-2, § 4(a) (“CAFA”)), 1441(a) and (b) and 1446, and remove this action from
8 the Superior Court of the State of California in and for the County of Los Angeles.
9 As grounds for removal, Defendants state as follows:

10 1. On October 12, 2021, Plaintiff Hilda Alvarez filed a civil complaint
11 against Defendants in the Superior Court of the State of California in and for the
12 County of Los Angeles, *Hilda Alvarez v. Conagra Brands, Inc. and ConAgra Foods*
13 *Packaged Foods LLC*, Case No. 21STCV37375, which sets forth the following eight
14 causes of action: (i) failure to pay minimum wages; (ii) failure to pay overtime
15 compensation; (iii) failure to provide meal periods; (iv) failure to authorize and
16 permit rest breaks; (v) failure to indemnify necessary business expenses; (vi) failure
17 to timely pay final wages at termination; (vii) failure to provide accurate itemized
18 wage statements; and (viii) unfair business practices (the “Complaint”).

19 2. Plaintiff served the Summons and Complaint and all of the other related
20 court documents on Defendants on October 18, 2021. Copies of the Notice of
21 Service, the Summons, Complaint, and all other related court documents received
22 by Defendants are attached to the Declaration of Jennifer Hinds as “Exhibit A.”

23 3. The state court filed an Initial Status Conference Order on October 15,
24 2021. Hinds Decl.

25 4. On November 17, 2021, Defendants filed their Answer to Plaintiff’s
26 Complaint with the superior court.
27
28

1 5. Other than the documents included in Exhibit A, no other documents
2 have been filed with the superior court in this action. Hinds Decl.

3 6. The undersigned counsel certifies that a copy of this Notice of Removal
4 and all supporting documents will be served on Plaintiff's counsel and filed with the
5 Clerk of the Los Angeles County Superior Court, as required by 28 U.S.C.
6 § 1446(d).

7 7. Venue for this action lies in the United States District Court for the
8 Central District of California pursuant to 28 U.S.C. § 1441 because this is the
9 judicial district in which the action was filed and where the case is pending.

10 8. This Notice of Removal has been filed within thirty (30) days after
11 Defendants were served with a copy of the Summons and Complaint upon which
12 this action is based. This Notice of Removal therefore is filed within the time period
13 provided by 28 U.S.C. § 1446(b).

14 **CLASS ACTION FAIRNESS ACT**

15 **A. Jurisdiction Pursuant to the Class Action Fairness Act**

16 9. Under CAFA, a defendant has a right to remove a state court action to
17 a federal district court where the district court has original jurisdiction over the
18 action. 28 U.S.C. § 1441.

19 10. The district courts have original jurisdiction over any civil action in
20 which the "matter in controversy exceeds the sum or value of \$5,000,000.00,
21 exclusive of interest and costs, and is a class action in which any member of a class
22 of plaintiffs is a citizen of a state different from any defendant." 28 U.S.C.
23 § 1332(d)(2).

24 11. The district courts have original jurisdiction where the proposed class
25 involves 100 or more members or where the primary defendants are not States, State
26 Officials, or other governmental entities. 28 U.S.C. § 1332(d)(5).

B. Diversity of Citizenship Under the Class Action Fairness Act

12. Under CAFA, diversity of citizenship is met when any member of the class is a citizen of a state different from any defendant. 28 U.S.C. § 1332(d)(2)(a).

13. Citizenship of the parties is determined by their citizenship status at the commencement of the action. 28 U.S.C. § 1332(d)(7).

14. At the time of filing the Complaint, Plaintiff alleged that he is a resident of the state of California. Compl. ¶ 7.

15. A corporation is a citizen of any state where it is incorporated and where its principal place of business is located. 28 U.S.C. § 1332(c).

16. A corporation's principal place of business is determined by the "nerve center" test, which looks to where the corporation maintains its corporate headquarters and where the corporation's officers direct, control, and coordinate the corporation's activities. *Hertz Corp. v. Friend*, 559 U.S. 77, 90 (2010).

17. Defendant Conagra, both at the time this action was commenced and at the time it was removed, was a citizen of Delaware and Illinois. Conagra is incorporated in the state of Delaware. Conagra's principal place of business is Illinois, where its corporate headquarters are located.

18. Defendant CFPF is a Delaware limited liability company. The sole member of CFPF is ConAgra Foods Packaged Foods Holdings, Inc., a Delaware corporation with its corporate headquarters in Illinois. ConAgra Foods Packaged Foods Holdings, Inc.'s parent company is Conagra Brands, Inc.

19. The presence of Doe defendants does not impact diversity for removal purposes. 28 U.S.C. § 1441(b).

20. Accordingly, CAFA's diversity of citizenship requirement is satisfied because Plaintiff is a citizen of California, Defendant Conagra is a citizen of Illinois and Delaware, and Defendant CFPF is a citizen of Illinois and Delaware.

1 **C. Amount in Controversy Under the Class Action Fairness Act**

2 21. Pursuant to CAFA, the amount in controversy must exceed the value of
3 \$5,000,000.00, exclusive of interest and costs. 28 U.S.C. § 1332 (d)(2).

4 22. The Ninth Circuit recently affirmed once again that when determining
5 whether the amount in controversy exceeds \$5,000,000, “‘a defendant’s notice of
6 removal need include only a plausible allegation that the amount in controversy
7 exceeds the jurisdictional threshold,’ and need not contain evidentiary submissions.”
8 *Salter v. Quality Carriers, Inc.*, 974 F.3d 959, 963 (9th Cir. 2020); *see also Ibarra*
9 *v. Manheim Invs., Inc.*, 775 F.3d 1193, 1197 (9th Cir. 2015) (citing *Dart Cherokee*
10 *Basin Operating Co. v. Owens*, 135 S.Ct. 547, 554 (2014)). Evidence establishing
11 the amount is only required when the plaintiff contests, or the court questions, the
12 defendant’s allegation. *Dart*, 135 S.Ct. at 554.

13 23. Stated differently, the amount in controversy is the “amount *at stake* in
14 the underlying litigation.” *Greene v. Harley-Davidson, Inc.*, 965 F.3d 767, 772 (9th
15 Cir. 2020) (quoting *Gonzales v. CarMax Auto Superstores, LLC*, 840 F.3d 644, 648
16 (9th Cir. 2016) (emphasis added)). “‘Amount at stake’ does not mean likely or
17 probable liability; rather, it refers to possible liability.” *Id.*

18 24. In measuring the amount in controversy, a court must assume that the
19 Plaintiff will prevail on each of his claims. *Roth v. Comerica Bank*, 799 F. Supp. 2d
20 1107, 1117 (C.D. Cal. 2010) (“The ultimate inquiry is what amount is put ‘in
21 controversy’ by the plaintiff’s complaint, not what a defendant will actually owe.”
22 (quotation omitted)).

23 25. Here, the Complaint is silent as to the amount in controversy for each
24 claim, and Defendants must only make a plausible allegation of the amount in
25 controversy. Defendants deny that they owe Plaintiff any damages alleged in her
26 Complaint.

27 **(i) Plaintiff’s Proposed Class**

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