

1 EVAN R. MOSES, CA Bar No. 198099  
evan.moses@ogletree.com  
2 CHRISTOPHER W. DECKER, CA Bar No. 229426  
christopher.decker@ogletree.com  
3 OGLETREE, DEAKINS, NASH, SMOAK &  
STEWART, P.C.  
4 400 South Hope Street, Suite 1200  
Los Angeles, CA 90071  
5 Telephone: 213-239-9800  
Facsimile: 213-239-9045

6 Attorneys for Defendant  
7 NUTRIEN AG SOLUTIONS, INC.

8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**

10  
11 BOBBY GRAYSON, III, individually, and on  
behalf of other members of the general public  
12 similarly situated,

13 Plaintiff,

14 v.

15 NUTRIEN, a Colorado corporation;  
NUTRIEN AG SOLUTIONS, INC., an  
16 unknown business entity; WESTERN FARM  
SERVICE, INC., an unknown business entity;  
17 and DOES 1 through 100, inclusive,

18 Defendants.

Case No. \_\_\_\_\_

**DEFENDANT NUTRIEN AG SOLUTIONS,  
INC.'S NOTICE OF REMOVAL OF CIVIL  
ACTION TO UNITED STATES DISTRICT  
COURT**

[Filed concurrently with Civil Cover Sheet;  
Certification of Interested Parties and Corporate  
Disclosure Statement; and Declarations of  
Amanda Vandagriff-Rounds, Christopher W.  
Decker, and Kegan Reiswig in Support of  
Removal]

Complaint Filed: April 2, 2021  
Trial Date: None  
District Judge: \_\_\_\_\_

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1 **TO THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF**  
2 **CALIFORNIA AND TO PLAINTIFF BOBBY GRAYSON, III AND HIS ATTORNEYS OF**  
3 **RECORD:**

4 PLEASE TAKE NOTICE THAT defendant Nutrien Ag Solutions, Inc. (“Nutrien” or  
5 “Defendant”), by and through the undersigned counsel, hereby removes the above-entitled action  
6 from the Superior Court of the State of California for the County of Tulare, Visalia Courthouse, to  
7 the United States District Court for the Eastern District of California, Fresno Division, pursuant to  
8 28 U.S.C. sections 1332, 1441(a), 1446, and 1453.<sup>1</sup> In support of such removal, Defendant states  
9 as follows:

10 **I. BACKGROUND**

11 1. On or about April 2, 2021, plaintiff Bobby Grayson III (“Plaintiff”) commenced this  
12 action by filing an unverified Class Action Complaint (“Complaint”) in the Superior Court of  
13 California, County of Tulare, captioned *Bobby Grayson III v. Nutrien; Nutrien AG Solutions, Inc.;*  
14 *Western Farm Service, Inc.; et. al.*, and bearing case number 286503. (True and correct copies of  
15 the Summons, Complaint, and Civil Case Cover Sheet are attached as **Exhibit A** to this Notice of  
16 Removal (“Notice”).)

17 2. On May 19, 2021, Plaintiff served Defendant with the Summons, Complaint, and  
18 Civil Case Cover Sheet. (Declaration of Christopher W. Decker [“Decker Decl.”], ¶ 2.)

19 3. The Complaint asserts claims for: (1) Violation of California Labor Code sections  
20 510 and 1198 (Unpaid Overtime); (2) Violation of California Labor Code sections 226.7 and 512  
21 (Unpaid Meal Period Premiums); (3) Violation of California Labor Code section 226.7 (Unpaid  
22 Rest Period Premiums); (4) Violation of California Labor Code sections 1194, 1197, and 1197.1  
23 (Unpaid Minimum Wages); (5) Violation of California Labor Code sections 201 and 203 (Final  
24 Wages Not Timely Paid); (6) Violation of California Labor Code section 204 (Wages Not Timely  
25 Paid During Employment); (7) Violation of California Labor Code section 226 (Non-Compliant  
26

27 \_\_\_\_\_  
28 <sup>1</sup> As noted below, Defendant may remove this action “without the consent of all defendants.”  
28 U.S.C. § 1453(b).

1 Wage Statements); (8) Violation of California Labor Code section 1174 (Failure to Keep Requisite  
2 Payroll Records); (9) Violation of California Labor Code sections 2800 and 2802 (Unreimbursed  
3 Business Expenses); and (10) Violation of California Bus. Prof. Code sections 17200 et seq.

4 4. On June 14, 2021, Defendant filed and served a Declaration of Demurring or  
5 Moving Party in Support of Automatic Extension in Tulare County Superior Court. A true and  
6 correct copy of Defendant's Declaration of Demurring or Moving Party in Support of Automatic  
7 Extension is attached as **Exhibit B** to this Notice.

8 5. As set out more fully below, based on the allegations of the Complaint and other  
9 evidence collected by Defendant, this Court has original jurisdiction over this action under the  
10 Class Action Fairness Act ("CAFA") 28 U.S.C. section 1332(d) and hence the action may be  
11 removed by Defendant pursuant to 28 U.S.C. section 1441. Original jurisdiction exists here  
12 because there are at least 100 class members in all proposed plaintiffs classes, the combined claims  
13 of all class members exceed \$5,000,000 exclusive of interest and costs, and Defendant is a citizen  
14 of a different state than at least one class member.

15 **II. DEFENDANT HAS SATISFIED THE PROCEDURAL REQUIREMENTS FOR**  
16 **REMOVAL**

17 **A. Timeliness**

18 6. The time to remove under 28 U.S.C. section 1446(b) does not begin to run until  
19 receipt by the defendant, through service or otherwise, of a pleading, motion, order or other paper  
20 from which it may first be ascertained that the case is one which is or has become removable.  
21 *Harris v. Bankers Life and Cas. Co.*, 425 F.3d 689, 694 (9th Cir. 2005). Here, the four corners of  
22 the Complaint do not provide readily ascertainable grounds for removal. The Complaint does not  
23 allege sufficient facts to calculate the amount in controversy with reasonable certainty as to the  
24 individually named plaintiff or as to the putative class. The Complaint does not allege the size of  
25 any putative class nor does it allege any claim under federal law. Accordingly, as mentioned, it is  
26 not possible to ascertain from the Complaint that this case is removable, and, to date, Defendant  
27 has not received any other document which would constitute an "other pleading, motion, order or  
28 other paper" providing this missing information. (Decker Decl. ¶ 5.) Accordingly, the time to

1 remove this action has not yet begun. Where the time to remove has not yet expired, a defendant  
2 may remove at any time if it uncovers evidence establishing that the case is removable. *Roth v.*  
3 *CHA Hollywood Medical Center, L.P.*, 720 F.3d 1121, 1125 (9th Cir. 2013). As set forth below,  
4 Defendant has only recently discovered such evidence after an arduous collection and review of all  
5 records of potential class members and a complex analysis of the estimated damages allocated to  
6 each cause of action. Therefore, Defendant is timely removing this case based on that discovery.

7 7. This Notice is timely filed as Defendant filed the Notice before the time for removal  
8 passed. The Complaint and Summons were served on Defendant on May 19, 2021. (Decker Decl.  
9 ¶ 2.) As such, the time to remove could not expire, at the earliest, until June 21, 2021, the first  
10 court day which is 30 days after service of the Summons and Complaint. This Notice is therefore  
11 timely, as it was filed on that date.

12 **B. Venue**

13 8. The Superior Court of California for the County of Tulare is located within the  
14 Eastern District of California, Fresno Division. Therefore, the action is properly removed to this  
15 Court pursuant to 28 U.S.C. section 84(d) because it is the “district and division embracing the  
16 place where such action is pending.” 28 U.S.C. § 1441(a).

17 **C. Procedural Requirements**

18 9. Pursuant to 28 U.S.C. section 1446(a), copies of all process, pleadings, and orders  
19 served upon Defendant and filed by Defendant are attached as **Exhibits A and B** to this Notice of  
20 Removal. (Decker Decl. ¶ 4.)

21 10. Pursuant to 28 U.S.C. section 1446(d), a copy of this Notice of Removal is being  
22 served upon counsel for Plaintiff and a copy is being filed with the Clerk of the Superior Court of  
23 California in the County of Tulare and with the Clerk of the Eastern District of California. True  
24 and correct copies of the Notice to the Plaintiff and the state court shall be filed promptly.

25 **III. THE CASE IS REMOVABLE PURSUANT TO CAFA**

26 11. As set forth below, Plaintiff’s claims as alleged in the Complaint are removable  
27 under 28 U.S.C. § 1332(d).  
28

- 1           12. Under CAFA, the Federal District Court has jurisdiction if:
- 2                 (a) There are at least 100 class members in all proposed plaintiff classes; and
- 3                 (b) The combined claims of all class members exceed \$5 million exclusive of
- 4 interest and costs; and
- 5           13. Any class member (named or not) is a citizen of a different state than any defendant.
- 6 28 U.S.C. §§ 1332(d)(2), 1332(d)(5)(B), and 1453(a).
- 7           14. In *Dart Cherokee Basin Operating Co. v. Owens*, 132 S.Ct. 547 (2014), the U.S.
- 8 Supreme Court provided significant clarification to the standards applicable to notices of removal
- 9 in CAFA cases, establishing a much more liberal standard in favor of removing defendants. In
- 10 *Dart Cherokee*, the U.S. Supreme Court held that a removal must only contain “a short and plain
- 11 statement of the grounds for removal.” *Id.* at 553 (quoting 28 U.S.C. § 1446(a)). The Court noted
- 12 that this same language is used for the pleading standard in Rule 8(a) of the Federal Rules of Civil
- 13 Procedure. *Id.* The use of this language in the removal statute was intentional—clearly indicating
- 14 that courts should apply the same liberal pleading standards to notices of removal as they should to
- 15 plaintiffs’ complaints and other pleadings. *Id.* The Court further held that a removing defendant
- 16 need not submit evidence with its pleading that establishes that the elements of federal subject
- 17 matter jurisdiction are met. *Id.* at 552-53. Only if the court or another party challenges jurisdiction
- 18 should the court require a removing defendant to prove, under the applicable “preponderance”
- 19 standard, that the jurisdictional requirements are met. *Id.* at 553-54. The Court summarized its
- 20 holding as follows: “[i]n sum, as specified in § 1446(a), a defendant’s notice of removal need
- 21 include only a plausible allegation that the amount in controversy exceeds the jurisdictional
- 22 threshold. Evidence establishing the amount is required by § 1446(c)(2)(B) only when the plaintiff
- 23 contests, or the court questions, the defendant’s allegation.” *Id.* at 554. Also, there is no
- 24 “presumption against removal” in CAFA cases, because CAFA was specifically enacted by
- 25 Congress “to facilitate adjudication of certain class actions in federal court.” *Id.*
- 26           A. **There are at least 100 class members in all Proposed Plaintiff Classes.**
- 27           15. In this action, Plaintiff seeks to represent a proposed class defined as follows: “All
- 28 current and former hourly-paid or non-exempt employees who worked for any of the Defendants

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