

Exhibit A

IN THE SUPERIOR COURT OF GWINNETT COUNTY
STATE OF GEORGIA

DRB REALTY & PROPERTIES, LLC

Plaintiff,

v.

NUTRIEN AG SOLUTIONS, INC., and
MILLS FORESTRY SERVICE, LLC,

Defendants.

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Civil Action No.

21-A-04860-7

COMPLAINT

COMES NOW DRB Realty & Properties, LLC, Plaintiff in the above-styled action, and brings this action against Nutrien Ag Solutions, Inc., and Mills Forestry Service, LLC, Defendants in the above-styled action, hereby showing the Court as follows:

JURISDICTION AND VENUE:

1.

Defendant Nutrien Ag Solutions, Inc. (hereinafter referred to as “Nutrien”), is a Delaware corporation that is authorized to transact business in the State of Georgia and may be served by serving its registered agent, CT Corporation System, at 289 S. Culver Street, Lawrenceville, Georgia 30046-4805.

2.

Jurisdiction and venue are proper in this Court as to Defendant Nutrien pursuant to O.C.G.A. § 14-2-510(b)(1), because Defendant Nutrien maintains its registered office in Gwinnett County, Georgia.

3.

Defendant Mills Forestry Service LLC (hereinafter referred to as “Mills Forestry”) is limited liability company organized in the State of Georgia and may be served by serving its registered agent, Sammy Mills, III, 235 Corinth Church Road, Adrian, Georgia 31002.

4.

Jurisdiction and venue are proper in this Court as to Defendant Mills Forestry pursuant to O.C.G.A. § 9-10-31(b) because Defendant Mills Forestry is a joint tortfeasor with Defendant Nutrien.

FACTS COMMON TO ALL COUNTS

5.

Plaintiff DRB hereby incorporates by reference Paragraphs 1 through 4 above as if fully set forth herein.

6.

Plaintiff DRB Realty & Properties, LLC (hereinafter referred to as “DRB”) contacted Defendant Nutrien during the Summer of 2019 and requested assistance in the removal of certain undesirable hardwoods located on Plaintiff DRB’s property, consisting of approximately 200 acres located in Emanuel County, Georgia.

7.

At all times material hereto, Plaintiff DRB advised Defendant that it was essential to preserve the oak trees located on the property in question, in addition to the pine trees, which were also to be protected.

8.

Defendant Nutrien recommended that Plaintiff DRB utilize a ground application of chemicals, as opposed to application by aerial means, as the ground application would ensure that safety of the oak trees and the pine trees on the property.

9.

The chemicals to be used were to be selected and applied in a manner that would not harm the oak trees or the pine trees. On July 17, 2019, Plaintiff DRB entered into a Ground and Application Agreement with Defendant Nutrien for the commercial application of chemicals to remove undesirable species on approximately 200 acres located in Emanuel County, Georgia.

10.

A true and correct copy of the Ground Application Agreement (hereinafter referred to as the “Agreement”) is attached hereto as Exhibit A.

11.

The Agreement provided that Defendant Nutrien would provide all necessary equipment and materials to perform the application services in a safe and efficient manner.

12.

The Agreement required that all personnel engaged to apply the chemicals in question possess the required qualifications and licenses required by the laws, rules and regulations of the United States of America and State of Georgia.

13.

Despite various assurances to the contrary, Defendant Nutrien did not utilize its employees to apply the chemicals to Plaintiff DRB’s property.

14.

The Agreement is a contract of adhesion drawn by Defendant Nutrien, which in part but not comprehensively set out the terms of the contract between Plaintiff DRB and Defendant Nutrien.

15.

Without consultation with or notice to Plaintiff DRB, Defendant Nutrien hired Defendant Mills Forestry to apply the chemicals to Plaintiff DRB's property.

16.

Defendant Nutrien negligently failed to instruct and inform Defendant Mills Forestry that it should apply the chemicals in a manner designed to protect and preserve the oak trees and the pine trees located on the property.

17.

Defendant Nutrien negligently failed to manage, oversee, or supervise Defendant Mills Forestry's application of chemicals to Plaintiff DRB's property.

18.

At all times material hereto, Defendant Mills Forestry did not possess the knowledge, training, qualifications, licenses, or equipment necessary for the safe and efficient application of the chemicals applied to Plaintiff DRB's real property.

19.

Defendants applied the chemicals in question to Plaintiff DRB's real property in a negligent manner and in a concentration that in some instances was in direct violation of the label of the respective chemicals.

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