

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

<p>BRIAN J. KROGMEIER and PAMELA KROGMEIER,</p> <p style="text-align:center">Plaintiffs,</p> <p>vs.</p> <p>ARCHER-DANIELS-MIDLAND COMPANY,</p> <p>Defendant.</p>	<p>CASE NO.</p> <p>DEFENDANT ARCHER-DANIELS- MIDLAND COMPANY'S NOTICE OF REMOVAL</p>
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Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Archer-Daniels-Midland Company (“ADM”) hereby removes the civil action pending in the Iowa District Court for Linn County captioned as *Brian J. Krogmeier and Pamela Krogmeier v. Archer-Daniels-Midland Company*, Law No.: LACV096517 (the “State Action”), to the United States District Court for the Northern District of Iowa. In support thereof ADM states as follows:

1. Plaintiffs Brian K. Krogmeier (“Mr. Krogmeier”) and Pamela Krogmeier (“Mrs. Krogmeier,” together “Plaintiffs”) filed their Original Notice and Petition in the Iowa District Court in and for Linn County on November 18, 2020 against ADM. A true and accurate copy of the Petition is attached hereto as Exhibit A (the “Petition”).

2. Plaintiffs allege Mr. Krogmeier sustained serious injuries while working on a concrete construction project at an ADM facility in Cedar Rapids, Linn County, Iowa. Exhibit A, ¶¶ 6-8. Mr. Krogmeier alleges that he has suffered and will suffer past and future medical expenses, lost earnings, past and future physical and mental pain and suffering, and past and future loss of full mind and body, among other damages. Exhibit A, ¶¶ 15, 18.

3. Plaintiffs allege Mrs. Krogmeier has suffered and will suffer “loss of services, support, companionship, and society of [Mr. Krogmeier]” as a result of ADM’s alleged negligence.

Exhibit A., ¶¶ 29-30.

4. Removal is timely because fewer than thirty (30) days have passed since ADM first received a copy of the Petition and Original Notice, which were served on ADM’s registered agent on November 20, 2020. Accordingly, this Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b). A true and accurate copy of the Service of Process Transmittal is attached hereto as Exhibit B.

5. No current motions and no further proceedings are pending in the Iowa District Court. Lienholders have filed a Notice of Iowa Workers’ Compensation Lien Pursuant to Iowa Code Section 85.22 filed December 7, 2020, which is attached as Exhibit C.

6. This action has not been previously removed to federal court.

7. Upon information and belief and in accordance with 28 U.S.C. § 1446(a), the foregoing documents and exhibits constitute all of the process, pleadings, and orders on file in the Iowa District Court proceeding.

8. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 and, therefore, it may be removed to this Court under 28 U.S.C. §§ 1441 and 1446. Removal under section 1441 is appropriate when (1) complete diversity of citizenship exists between the plaintiff and all properly joined defendants and (2) the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

9. The amount in controversy, exclusive of interest and costs, exceeds \$75,000.

10. ADM has certain knowledge regarding the extent of Plaintiffs’ injuries, which indicates that each of the Plaintiffs have claims exceeding \$75,000.

11. The parties are citizens of different States, and this Court has original jurisdiction of the above-entitled action pursuant to 28 U.S.C. § 1332(a). The action may therefore be removed to this Court pursuant to 28 U.S.C. § 1441(a).

REMOVAL IS PROPER

I. Complete Diversity of Citizenship Exists Between Plaintiffs and ADM.

12. For purposes of diversity citizenship, a corporation is deemed to be a citizen of both the state of its incorporation and the state where it has its principal place of business. 28 U.S.C. § 1332 (c)(1).

13. Plaintiffs are citizens of the State of Iowa, as they each reside in Coralville, in Johnson County, Iowa, according to the Petition. Exhibit A, ¶¶ 1-2.

14. Defendant ADM is a Delaware corporation headquartered in Chicago, Illinois. Defendant is therefore a citizen of Delaware and Illinois for purposes of determining diversity jurisdiction.

15. Accordingly, complete diversity exists among the parties at the time Plaintiffs filed their suit in state court and complete diversity exists among the parties at the time this Notice of Removal is filed. Removal is proper under 28 U.S.C. § 1332(a)(1).

II. The Amount in Controversy Exceeds \$75,000.

16. This action satisfies the amount in controversy requirement for removal because Plaintiffs seek recovery in an amount in excess of \$75,000 exclusive of interests and costs.

17. Although Plaintiffs do not specify a dollar value, alleging instead that “the amount in controversy exceeds the appropriate jurisdictional amount” and demanding “judgment against Defendant ADM in an amount that will fully, fairly, and adequately compensate him for the

injuries and damages, together with interest as provided for by law, and the costs of this action, and such other and further relief as is just in the circumstances.” Exhibit A, ¶¶ 9; 18; 37; and 30.

18. Plaintiffs seek damages from ADM for past and future medical expenses, lost earnings, loss of future earning capacity, past and future physical and mental pain and suffering, and past and future loss of fully mind and body. *See* Exhibit A, ¶¶ 18 (a)-(e); 27(a)-(3).

19. Mrs. Krogmeier seeks damages from ADM for “future . . . loss of services, support, companionship, and society of Brian Krogmeier, her husband.” *See* Exhibit A, ¶ 30.

20. Accordingly, although ADM reserves the right to object to the damages sought by Plaintiffs and dispute that Plaintiffs are entitled to recover any damages, each Plaintiff asserts claims with an amount in controversy exceeding the \$75,000.00 minimum required by 28 U.S.C. § 1332. *See Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 89 (2014) (“[A] defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.”).

III. Venue is Proper

21. Venue is proper in this Court pursuant to 28 U.S.C. § 1441(a) because the State Action was originally filed in Linn County, Iowa, which is within this Court’s district and division.

22. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being filed with the Clerk of the Court for the Iowa District Court in and for Linn County and is being served on Plaintiffs’ counsel. A true and accurate copy of the Notice to State Court and Plaintiffs is attached hereto as Exhibit D.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 81

23. Pursuant to Local Rule 81, Defendants certify the following:

- a. Pursuant to 28 U.S.C. § 1446(a) and LR 81, copies of all process, pleadings, and orders filed in this action are attached hereto as Exhibits A, B, C and E-H, and by this reference incorporated herein.
- b. Pursuant to LR 81, no matters are pending in the State Action that will require resolution in this Court, other than the lawsuit that is the subject of this Notice of Removal.
- c. Pursuant to LR 81, the names of parties, counsel, and the law firms that have appeared in the State Action are as follows:

Attorneys for Plaintiffs Brian J. Krogmeier and Pamela Krogmeier:

Tim Semelroth AT0007057
Dillon Besser AT0013027
RSH LEGAL
425 2nd Street SE, Suite 1140
Cedar Rapids, IA 52401
Phone: 319 365 9200
Fax: 319 365-1114
Email: tsemelroth@fightingforfairness.com
Email: dbesser@fightingforfairness.com

Attorneys for Lienholders Zurich American Insurance Company and Agrinational Insurance Company:

Peter J. Thill
Lori N. Scardina Utsinger
BETTY, NEUMAN & MCMAHAN, P.L.C.
1900 East 54th Street
Davenport, IA 52807-2708
Phone: 563 326 4491
Fax: 563.326.4498
Email: pjt@bettylawfirm.com
Email: lnsu@bettylawfirm.com

WHEREFORE, ADM gives notice that the State Action is removed from the Iowa District Court for Linn County to the United States District Court for the Northern District of Iowa.

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