

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) JOHN CRAIG FIRST a/k/a CRAIG
FIRST and
(2) LACEY FIRST, Individually and as
Husband and Wife, and
(3) FIRST FARMS and TRUCKING,
LLC,

Plaintiffs,

v.

(1) AGCO CORPORATION;
(2) AGCO SERVICE, a Subsidiary of
AGCO CORPORATION;
(3) AGCO FINANCE, LLC, a
Subsidiary of AGCO CORPORATION;
(4) AMTRUST FINANCIAL
SERVICES;
(5) WESCO INSURANCE COMPANY
a division and/or Subsidiary of
AMTRUST FINANCIAL SERVICES;
(6) AMT WARRANTY CORP., a
division and/or Subsidiary of
AMTRUST FINANCIAL SERVICES;
and
(7) ROLLING PLAINS IMPLEMENT
COMPANY., INC.;

Defendants.

CASE NO. CIV-20-1104-HE

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendants AGCO Corporation and AGCO Service, hereby remove this action from the District Court of Oklahoma County, State of Oklahoma, to the United States District Court for the Western District of Oklahoma. As described below, this Court has subject matter jurisdiction over the claims

alleged in this case, and the procedural requirements of removal have been satisfied. Therefore, this case is properly removed to this Court.

Procedural History

1. On or about September 17, 2020, Plaintiffs John Craig First (“Craig First”), Lacey First (“Lacey First”), and First Farms and Trucking, LLC (“First Farms”, collectively the “Plaintiffs”) filed a Petition (the “Petition”) against AGCO Corporation and AGCO Service (collectively, “AGCO”), AGCO Finance, LLC (“AFF”), Amtrust Financial Services (“Amtrust”), Wesco Insurance Company (“Wesco”), AMT Warranty Corp. (“AMT”), and Rolling Plains Implement Company, Inc. (“Rolling Plains”), in the District Court of Oklahoma County, State of Oklahoma, Case No. CJ-2020-4427 (the “State Court Action”). Pursuant to 28 U.S.C. §1446(a), attached hereto as **Exhibit 1** are true and correct copies of all process, pleadings, and orders served upon AGCO in the State Court Action.

2. The Petition was served on the registered agent for AGCO on October 2, 2020. AGCO filed a Special Entry of Appearance and Reservation of Time in which to Further Answer or Plead on October 16, 2020. Other than its Special Entry of Appearance, AGCO has not filed any pleadings in the State Court Action. However, in accordance with 28 U.S.C. § 1446(d), a copy of this Notice will be filed in the State Court Action.

Grounds for Removal

3. Pursuant to 28 U.S.C. § 1332(a), this Court has diversity jurisdiction over this suit because there is complete diversity of citizenship between Plaintiffs and Defendants AGCO, AFF, Amtrust, Wesco, AMT, and Rolling Plains, and because the

amount in controversy, exclusive of interest and costs, exceeds \$75,000. In addition, pursuant to 28 U.S.C. § 1441, et seq., this case is properly removable.

A. Citizenship of the Parties

4. Craig First alleges in the Petition that he is an individual residing in Davidson, Oklahoma (see Pls.’ Pet., ¶ 1) and thus a citizen of the State of Oklahoma for the purposes of determining diversity jurisdiction. See *Crowley v. Glaze*, 710 F.2d 676, 678 (10th Cir. 1983) (“For purposes of diversity jurisdiction under 28 U.S.C. § 1332(a)(1), state citizenship is the equivalent of domicile.”)

5. Lacey First alleges in the Petition that she is an individual residing in Davidson, Oklahoma (see Pls.’ Pet., ¶ 1) and thus a citizen of the State of Oklahoma for the purposes of determining diversity jurisdiction. See *Crowley* 710 F.2d at 678.

6. First Farms is a limited liability company organized and existing under the laws of the State of Missouri with its principal place of business in Polo, Missouri. Attached hereto as **Exhibit 2** are true and correct copies of the Articles of Organization and Certificate of Organization of First Farms from the Secretary of State of the State of Missouri dated October 10, 2009 and October 13, 2009, respectively. According to the Petition, First Farms’ members are Craig First and Lacey First—both citizens of Oklahoma for determining diversity jurisdiction. (See Pls.’ Pet., ¶ 2.) Therefore, for the purposes of determining diversity jurisdiction, First Farms is a citizen of Missouri and Oklahoma. See *Siloam Springs Hotel, L.L.C. v. Century Sur. Co.*, 781 F.3d 1233, 1234 (10th Cir. 2015) (“Like every other circuit to consider this question, this court concludes an LLC, as an unincorporated association, takes the citizenship of all its members.”)

7. AGCO¹ is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Duluth, Georgia. Therefore, for purposes of determining diversity jurisdiction, AGCO is a citizen of Delaware and Georgia. See 28 U.S.C. § 1332(c)(1).

8. AFF is a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business in Des Moines, Iowa. AFF has two members: Defendant AGCO and De Lage Landen Finance, Inc., a Delaware corporation with its principal place of business in Wayne, Pennsylvania. Therefore, for purposes of determining diversity jurisdiction, AFF is a citizen of Delaware, Iowa, Georgia, and Pennsylvania. See *Siloam*, 781 F.3d at 1234; 28 U.S.C. § 1332(c)(1).

9. Amtrust² is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in New York, New York. Therefore, for purposes of determining diversity jurisdiction, Amtrust is a citizen of Delaware and New York. See 28 U.S.C. § 1332(c)(1).

10. Wesco is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in New York, New York. Therefore, for purposes of determining diversity jurisdiction, Wesco is a citizen of Delaware and New York. See 28 U.S.C. § 1332(c)(1).

11. AMT is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Bedford, Texas. Therefore, for purposes of

¹ AGCO Service is a division of AGCO, and is not a separate entity.

² Upon information and belief, Plaintiffs improperly named “Amtrust Financial Services” as a Defendant. The correct entity name is Amtrust Financial Services, Inc.

determining diversity jurisdiction, AMT is a citizen of Delaware and Texas. See 28 U.S.C. § 1332(c)(1).

12. Rolling Plains is a corporation organized and existing under the laws of the State of Texas with its principal place of business in Texas. Therefore, for purposes of determining diversity jurisdiction, Rolling Plains is a citizen of Texas. See 28 U.S.C. § 1332(c)(1).

13. Therefore, complete diversity of citizenship exists between Plaintiffs and Defendants.

B. Amount in Controversy

14. Plaintiffs' Petition seeks actual and punitive damages in an amount "in excess of that required for federal diversity jurisdiction," as well as costs and attorney's fees in an unspecified amount. (See e.g. Pls.' Pet., p. 23.) Although AGCO denies that Plaintiffs are entitled to any relief whatsoever, the Petition states on its face that the "matter in controversy" exceeds the \$75,000 jurisdictional threshold set forth in 28 U.S.C. § 1332(a).

The Procedural Requirements for Removal Have Been Satisfied

15. AGCO is timely filing this Notice of Removal within thirty (30) days of service of the Summons and Petition. 28 U.S.C. § 1446(b) and (c)(1).

16. Because Plaintiffs and Defendants AGCO, AFF, Amtrust, Wesco, AMT, and Rolling Plains are completely diverse and the amount in controversy, exclusive of interest and costs, exceeds the amount required for federal jurisdiction (\$75,000), this Court has original jurisdiction of this action pursuant to 28 U.S.C. § 1332(a). Further, no defendant

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