

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION

FORREST E. CRIDER,)	
)	
Plaintiff,)	
)	
vs.)	CA No. 5:20-cv-02279-JMC
)	
PILGRIM’S PRIDE CORPORATION,)	
HOG SLAT INCORPORATED, AGFIRST)	
FARM CREDIT BANK, and AGSOUTH)	
FARM CREDIT ACA,)	
)	
Defendants.)	
_____)	

NOTICE OF REMOVAL

Defendant AgSouth Farm Credit ACA (“AgSouth”) files its Notice of Removal to remove this action to the United States District Court for the District of South Carolina, Orangeburg Division, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and the doctrine of fraudulent joinder. Plaintiff Forrest E. Crider originally filed this action in the First Judicial Circuit Court for Calhoun County, South Carolina, Case No. 2020-CP-09-00093, where the action is currently pending.

I. NATURE OF THE ACTION

1. This is a lawsuit filed by a chicken grower, Plaintiff Forrest E. Crider, complaining about chickens he never received from Defendant Pilgrim’s Pride Corporation (“Pilgrim’s”) after entering into an alleged contract with Pilgrim’s “via letter of intent and oral agreements with” Pilgrim’s representatives “on June 8, 2018.” (*See* Complaint (“*Compl.*”) attached hereto as Exhibit (“*Ex.*”) A at ¶¶ 14, 21, 26-29, 31-34.)

2. According to the Complaint, Pilgrim’s agreed to deliver poultry to Mr. Crider’s poultry farm if he “undertook various upgrades and repairs.” (*Id.* ¶ 14.)

3. The Complaint alleges Mr. Crider hired Defendant Hog Slat Incorporated (“Hog Slat”) to “provide[] and install[] various materials and equipment at [Mr. Crider’s] poultry houses,” but Hog Slat’s work was allegedly improperly performed. (*Id.* ¶¶ 17, 19, 53-54.)

4. Mr. Crider also alleges that Defendants AgSouth and AgFirst Farm Credit Bank (“AgFirst”) “withheld from [Mr. Crider] needed funds to make the repairs and upgrades to his poultry houses required by” Pilgrim’s. (*Id.* ¶ 20.)

5. Nevertheless, Mr. Crider purportedly “completed [the] repairs and upgrades required by” Pilgrim’s, but Pilgrim’s supposedly refused to “provide [Mr. Crider] with birds pursuant to the existing contract and continued to unilaterally impose additional requirements for repairs, modifications, and upgrades not originally contemplated.” (*Id.* ¶ 21.)

6. Mr. Crider also contends that Pilgrim’s told Mr. Crider that “it would provide birds to [Mr. Crider’s] poultry farm only if the farm was owned by someone other than [Mr. Crider].” (*Id.* ¶ 22.)

7. Mr. Crider waited nearly two years after entering his alleged contract with Pilgrim’s to file this lawsuit. (*See generally* Compl.)

8. Mr. Crider’s lawsuit alleges: (1) breach of contract and fraudulent misrepresentation causes of action against Pilgrim’s (*Id.* ¶¶ 25-37); (2) a tortious interference of contract claim against AgSouth and AgFirst (*Id.* ¶¶ 38-43); (3) allegations of a civil conspiracy among all four named defendants (*Id.* ¶¶ 44-51); (4) a negligence claim against Hog Slat (*Id.* ¶¶ 52-55); and (5) an unfair trade practices claim against all defendants. (*Id.* ¶¶ 56-63.)

9. Based on his various theories of recovery, Mr. Crider seeks actual damages against each defendant exceeding “several hundred thousand dollars” (*Id.* ¶¶ 24, 29, 37, 43, 51, 55, and 63), punitive damages, treble damages, and attorney’s fees. (*Id.* at p. 12 (“Prayer”).)

II. REMOVAL IS TIMELY

10. On May 13, 2020, Mr. Crider filed a Complaint in the First Judicial Circuit Court for Calhoun County, South Carolina, styled *Forrest E. Crider v. Pilgrim's Pride Corporation, Hog Slat Incorporated, AgFirst Farm Credit Bank, and AgSouth Farm Credit ACA*, Case No. 2020-CP-09-00093. (*See generally* Compl.)

11. Service was made on Pilgrim's and Hog Slat on May 18, 2020. (*See* Ex. A.)

12. Service was made on AgFirst on May 19, 2020. (*Id.*)

13. Service was made on AgSouth on May 22, 2020. (*Id.*)

14. Pursuant to 28 U.S.C. § 1446(a), a copy of the Complaint and all process and pleadings served upon the defendants are attached to this notice as Exhibit "A."

15. Pursuant to 28 U.S.C. § 1446(b), this Notice is filed within thirty (30) days of the date Pilgrim's and Hog Slat were served with the Complaint.

16. Pilgrim's and Hog Slat consent to removal. (*See* Exhibit "B.")

17. AgFirst's consent is immaterial because Mr. Crider fraudulently joined AgFirst, *see Brantley v. Vaughan*, 835 F. Supp. 258, 260 n.2 (D.S.C. 1993), but AgFirst consents to removal. (*See id.*)

III. REMOVAL IS PROPER

18. Removal is proper pursuant to 28 U.S.C. § 1332 because complete diversity exists between Mr. Crider and Defendants Pilgrim's, Hog Slat and AgSouth, the amount-in-controversy exceeds \$75,000.00, and because Mr. Crider fraudulently joined AgFirst as a defendant.

A. **Complete Diversity Exists and the Amount-in-Controversy Will Exceed \$75,000.00.**

19. Mr. Crider is alleged to be a citizen of South Carolina. (Compl. ¶ 1.)

20. Pilgrim’s is a Delaware corporation with its principal place of business in Colorado. (*Id.* ¶ 2.)

21. Hog Slat is a North Carolina corporation with its principal place of business in North Carolina. (*Id.* ¶ 3.)

22. AgSouth is “headquartered and domiciled in the State of Georgia,” and has its principal place of business in Georgia. (*Id.* ¶ 5.)

23. AgFirst is “headquartered and domiciled in the State of South Carolina” (*id.* ¶ 4), but the Court should disregard AgFirst’s citizenship for jurisdictional purposes because Mr. Crider fraudulently joined AgFirst. *See* Section III.B, *infra*.

24. If liability is imposed and damages are awarded in this case (which is contested), Mr. Crider will seek damages exceeding \$75,000.00.

25. Although liability is disputed, the Complaint alleges:

As a result of the Defendants’ actions, [Mr. Crider] has been damaged and has expended *large sums of money* to undertake repairs and upgrades in reliance on representations made by Defendant Pilgrim’s Pride and to address improper installation of materials and equipment by Defendant Hog Slat. Additionally, Defendant Pilgrim’s Pride’s breach of contract resulted in [Mr. Crider] being forced to sell his poultry farm for *several hundred thousand dollars* less than its true market value via a ‘fire sale’ due to financial distress brought about by Defendant Pilgrim’s Pride. Collusive actions by Defendants Pilgrim’s Pride, AgFirst Farm, and AgSouth placed [Mr. Crider] in a financial hardship and required him to include in the sale of his property equipment and land not originally provided as collateral for Plaintiff’s loans on the property. Further, actions by Defendants AgFirst and AgSouth played a material role in the breach of contract by Defendant Pilgrim’s. Finally, negligence by Defendant Hog Slat damaged [Mr. Crider] such that he was required to expend his own money to repair the faulty materials and equipment installed by Defendant Hog Slat. All Defendants’ actions violated this state’s Unfair Trade Practices Act.

(*Id.* ¶ 24 (emphasis added).)

26. With respect to Mr. Crider’s Unfair Trade Practices Act claim pleaded against all defendants, Mr. Crider alleges he “has been damaged and has expended *large sums of money* to

undertake repairs and upgrades to his poultry farms. Additionally, Defendants' unfair trade practices have resulted in [Mr. Crider] being forced to sell his poultry farm for *several hundred thousand dollars less than its true market value.*" (*Id.* ¶ 63 (emphasis added).)

27. Collectively, these allegations, standing alone, demonstrate that the amount-in-controversy exceeds the sum of \$75,000.00.

28. Further, Mr. Crider also requests exemplary and treble damages be awarded against each defendant. (*See id.* at Prayer.)

29. Case law suggests that a request for punitive damages will generally satisfy the amount-in-controversy requirement because it cannot be stated to a legal certainty that the value of the plaintiff's claim is below the statutory minimum. *See, e.g., Golden v. Golden*, 382 F.3d 348, 354-355 (3d Cir. 2004).¹

30. Further, this Court, after making "reasonable deductions, reasonable inferences, or other reasonable extrapolations," should determine that it is facially apparent from the Complaint, by itself, that the case meets the \$75,000.00 amount-in-controversy requirement. *See, e.g., Roe v. Michelin N. Am., Inc.*, 613 F.3d 1058, 1061 (11th Cir. 2010) (quoting *Pretka v. Kolter City Plaza II, Inc.*, 608 F.3d 744, 770 (11th Cir. 2010)). Here, the Complaint seeks, among other things, hundreds of thousands of dollars in damages associated with Mr. Crider allegedly being forced to sell the poultry farm for an amount "less than its true market value" (Compl. ¶¶ 24, 29, 37, 43, 51, 55, and 63), the expenditure of "large sums of money to undertake repairs and upgrades" to the poultry farm (*Id.*), the sale of "property items such as equipment and land that were not originally

¹ As noted in *Smith v. Albert Einstein Med. Ctr.*, Civ. A. No. 08-05689, 2009 WL 1674615, at *5 (E.D. Pa. June 11, 2009), *Golden* was superseded on other grounds by *Marshall v. Marshall*, 547 U.S. 293 (2006). Nevertheless, *Golden* has been cited in several subsequent decisions for the proposition that a request for punitive damages will generally satisfy the amount-in-controversy requirement for diversity jurisdiction under 28 U.S.C. § 1332. *See, e.g., Koerner v. Geico Cas. Co.*, No. 3:17-cv-455, 2017 WL 2180356, at *5 (M.D. Pa. 2017); *Frumpp v. Claire's Boutiques, Inc.*, No. 10-1106-CV, 2011 WL 1103055, at *4 (W.D. Mo. Mar. 22, 2011).

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