

# EXHIBIT A-2

Carolyn Rains  
District Clerk  
Houston County, Texas  
Jennifer Pierce

IN THE DISTRICT COURT OF HOUSTON COUNTY, TEXAS

3RD JUDICIAL DISTRICT

MICHAEL BROWN, RHONDA  
BROWN AND CHARLES BROWN

VS.

CROP PRODUCTION SERVICES, INC.  
AND NUTRIEN AG SOLUTIONS,  
INC.

\*  
\*  
\*  
\*  
\*  
\*  
\*

NO. 20-0081

**PLAINTIFFS' ORIGINAL PETITION**

Michael Brown, Rhonda Brown and Charles Brown, Plaintiffs, complain of Crop Production Services, Inc. and Nutrien Ag Solutions, Inc., Defendants, and for cause of action show:

1. SELECTION OF DISCOVERY LEVEL

Plaintiffs affirmatively plead that they seek monetary relief over \$1,000,000.00. Discovery should be conducted under a tailored discovery control plan under Texas Rule of Civil Procedure 190.4.

2. STATEMENT OF RELIEF SOUGHT

Plaintiffs seek monetary relief over \$1,000,000.00. The damages sought are within the jurisdictional limits of the Court.

3. PARTIES AND SERVICE INSTRUCTIONS

A. Plaintiff Michael Brown is, and was at the time the cause of action accrued, an individual residing in Houston County, Texas.

B. Plaintiff Rhonda Brown is, and was at the time the cause of action accrued, an individual residing in Houston County, Texas.

C. Plaintiff Charles Brown is, and was at the time the cause of action accrued, an individual residing in Houston County, Texas.

D. Defendant Crop Production Services, Inc. is a foreign corporation doing business in the State of Texas, and it may be served with citation by serving its registered agent, CT Corporation System, 1999 Bryan St., Suite 900, Dallas, Texas 75201-3136.

E. Defendant Nutrien Ag Solutions, Inc. is a foreign corporation doing business in the State of Texas, and it may be served with citation by serving its registered agent, CT Corporation System, 1999 Bryan St., Suite 900, Dallas, Texas 75201-3136. Defendant Nutrien Ag Solutions, Inc. is a continuation of Defendant Crop Production Services, Inc. by virtue of merger, conversion or change of name. Alternatively, Defendant Nutrien Ag Solutions, Inc. expressly assumed the obligations of its predecessor, Crop Production Services, Inc.

#### 4. PLAINTIFFS' STATUS AS CONSUMERS

On or about June 22, 2018, Plaintiffs acquired by purchase from Defendant Crop Production Services, Inc. a tote purporting to contain agricultural herbicide.

#### 5. VENUE

The tote with the chemicals was delivered to Plaintiffs in Houston County, Texas by Defendant Crop Production Services, Inc. Additionally, an authorized agent of Defendant Crop Production Services, Inc. solicited the transaction the subject of this suit in Houston County, Texas.

6. DEFENDANTS' MISCONDUCT

At the time of the transaction described above, Defendant Crop Production Services, Inc. represented to Plaintiffs that the tote contained only Enlist Duo herbicide. In fact, the tote was contaminated with another substance. As a result of Plaintiffs applying the contaminated herbicide to their cotton crop, they lost their cotton crop for the year 2018. Their cotton crop was completely destroyed.

At the time of Plaintiffs' purchase of the tote of herbicide in question, Defendant Crop Production Services, Inc. was a merchant and dealer in agricultural herbicide and held itself out to the public as having knowledge or skill peculiar to that business. Accordingly, Defendant Crop Production Services, Inc. impliedly warranted that the tote and herbicide would be merchantable, that they were reasonably fit for the ordinary purpose for which they were to be used and would pass without objection in the trade under their contract description. However, the warranty was breached, in that the herbicide was not as warranted, but was defective, in that it was contaminated and not fit for the ordinary purpose which it was to be used, was not merchantable at the time of sale and would not pass without objection in the trade under its contract description. Defendant Crop Production Services, Inc., a merchant having appropriate skill or judgment, breached the implied warranty of merchantability. The

herbicide in the tote was defective when it left Defendant Crop Production Services, Inc.'s possession, and it was unfit for the ordinary purposes for which the herbicide was to be used.

Defendant Crop Production Services, Inc. also breached the warranty of fitness for a particular purpose. At the time the contract for sale was made, Defendant Crop Production Services, Inc. knew, or should have known, of the particular purpose for which the herbicide would be used and that Plaintiffs were relying on its skill and judgment to furnish suitable herbicide. Plaintiffs actually relied on Defendant Crop Production Services, Inc.'s skill or judgment to furnish suitable herbicide, to their damage. The herbicide was contaminated at the time it was tendered to Plaintiffs.

Defendant Crop Production Services, Inc. additionally breached an express warranty when it made an affirmation of fact that the herbicide was Enlist Duo only, when in fact it was contaminated with another substance.

The foregoing representations violate, among other things:

(A) Section 17.46(b)(2) of the Deceptive Trade Practices-Consumer Protection Act of the State of Texas, by causing confusion or misunderstanding as to the source, sponsorship, approval or certification of the goods;

(B) Section 17.46(b)(5) of the Deceptive Trade Practices-Consumer Protection Act of the State of Texas, by representing that

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.