

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

WILLIAM BOOKER,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. <u>4:21-cv-4</u>
	§	
SANDERSON FARMS, INC.,	§	
	§	
Defendant.	§	

DEFENDANT SANDERSON FARMS, INC.’S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE AND CLERK OF THE COURT:

COMES NOW Defendant Sanderson Farms, Inc. (“Sanderson Farms”) and files its Notice of Removal. As grounds for removal, Sanderson Farms respectfully shows the Court as follows:

1. On or about December 3, 2020, an action was commenced in the 361st Judicial District Court, Brazos County, Texas styled “William Booker v. Sanderson Farms, Inc.” as Cause No. 20-003136-CV-361 (hereinafter referred to as the “State Court Action”).

2. Sanderson Farms was served with process through its registered agent on December 4, 2020. Therefore, in accordance with 28 U.S.C. § 1446(b)(1), this Notice of Removal is timely filed within 30 days after Sanderson Farms’ receipt of Plaintiff’s pleading setting forth the grounds upon which removal is based.

3. As stated in Plaintiff’s Original Petition (“Plaintiff’s Petition”), Plaintiff is a resident of Brazos County, Texas and therefore is a citizen of Texas for purposes of diversity jurisdiction.

4. Sanderson Farms was at the time that the State Court Action was filed and has remained at all other relevant times, including the date of the filing of this Notice of Removal, a corporation organized and existing under the laws of Mississippi with its principal place of business

located in Laurel, Mississippi. Accordingly, Sanderson Farms is a citizen of Mississippi, and is not a citizen of the Texas, for purposes of diversity jurisdiction.

5. Plaintiff has asserted negligence claims against Sanderson Farms for injuries that he allegedly sustained in a job-related incident at Sanderson Farms on December 3, 2018. See Ex. 2-A, Plaintiff's Petition, pp. 2-3, ¶¶ 4.1-5.4. The amount in controversy in Plaintiff's to negligence claim exceeds \$75,000, exclusive of interest and costs.

6. In Plaintiff's Petition, Plaintiff asserts that he sustained severe injuries on or about December 2018, when he was using a ladder provided by Sanderson Farms to work on a machine. The ladder broke, causing Mr. Booker to suddenly and unexpectedly be thrown against the machine and then to the concrete floor. See Ex. 2-A, Plaintiff's Petition, p. 2 ¶¶ 4.1-4.2.

7. According to Plaintiff, he suffered serious personal injuries, as well as pain and suffering, lost wages, physical and mental anguish, physical impairment, and disfigurement. See Ex. 2-A, Plaintiff's Petition, p. 2, 4 ¶¶ 4.3, 5.5, 6.1.

8. As alleged in Plaintiff's Petition, Plaintiff seeks to recover compensation for eleven categories of damages for his alleged injury on December 3, 2018. These alleged damages consist of past and future physical pain and mental anguish, past and future physical impairment, past and future disfigurement, past and future loss of income/earning capacity, past and future medical expenses, and property damage and loss. See Ex. 2-A, Plaintiff's Petition, pp. 4, ¶¶ 6.1.A.1.-11.

9. As stated in Plaintiff's Petition and the Civil Case Information Sheet, Plaintiff seeks monetary relief in an amount which does not exceed \$250,000. See Ex. 2-A, Plaintiff's Petition, p. 1, ¶ 3.1; Ex. B, Civil Case Information Sheet.

10. Since this lawsuit is between citizens of different states and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, this Court has

original jurisdiction pursuant to 28 U.S.C. § 1332(a)(1). Therefore, the State Court Action may be removed in accordance with 28 U.S.C. § 1441(b).

11. Under 28 U.S.C. § 1441(a), venue of a removed action is proper in the district and division embracing the place where the state court case is pending. Since the State Court Action is currently pending in the 361st Judicial District Court, Brazos County, Texas, removal to the United States District Court for the Southern District of Texas, Houston Division, is proper.

15. In accordance with Local Rule 81 of the United States District Court for the Southern District of Texas and 28 U.S.C. § 1446(a), the following are appended as exhibits:

- Exhibit 1 - All executed process in the case;
- Exhibit 2 - Pleadings asserting causes of action, e.g., petitions, counterclaims, cross actions, third-party actions, interventions, and all answers to such pleadings;
- Exhibit 3 - Brazos County Case Information Sheet;
- Exhibit 4 - An index of matters being filed;
- Exhibit 5 - A list of all counsel of record, including address, telephone numbers and parties represented;

16. As required by 28 U.S.C. § 1446(d), Sanderson Farms will give written notice to Plaintiff of this Notice of Removal. A Notice of Removal to Federal Court, including a copy of this Notice of Removal and the exhibits appended hereto, will be filed with the Brazos County District Clerk for the 361st Judicial District Court.

WHEREFORE, PREMISES CONSIDERED, Defendant Sanderson Farms, Inc. requests that the Court assume full jurisdiction of this cause as if it had been originally filed in this Court, that further proceedings in the State Court Action be stayed, and for such other and further relief, at law or in equity, general or special, to which Sanderson Farms may be justly entitled.

Respectfully submitted,

By: /s/ William O Ashcraft

William O Ashcraft, Esq.
Attorney-in-charge
State Bar No. 01372800
Southern District of Texas Bar No. 11654

ASHCRAFT LAW FIRM
3850 Republic Center
325 North St. Paul Street
Dallas, Texas 75201
Telephone: (214) 987-0660
Facsimile: (214) 987-3847
Email: woa@ashcraftlawfirm.com

ATTORNEYS FOR DEFENDANT
SANDERSON FARMS, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Defendant Sanderson Farms, Inc.'s Notice of Removal was served via the electronic case filing system upon counsel of record for Plaintiff on the 2nd day of January 2021 as follows:

Michael D. West, Esq.
WEST & WEST, LLP
3818 Fox Meadow
Pasadena, Texas 77504
service@westandwest.com

/s/ William O Ashcraft

William O Ashcraft