

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

TONY A. RICHARDSON,)	
DEVIN RICHARDSON,)	
DALTON N. RICHARDSON,)	
KANE B. TAYLOR,)	
BAILEY J. MILLER and)	
DOMINICK UPTON,)	
)	
Plaintiffs,)	
)	
v.)	Case No:
)	
DG FOODS, INC.,)	
MARK BAUMANN, personally and)	
KEISHA SOHN, personally.)	
)	
Defendants.		

JOINT NOTICE OF REMOVAL

COME NOW Defendants DG Foods, Inc., Mark Baumann and Keisha Sohn (hereafter “Defendants”), by and through their attorneys, and give notice that the case of *Tony Richardson, et al. v. DG Foods, Inc., et al.*, initiated in the Circuit Court for Lincoln County on or about August 13, 2018, and assigned case number 18L6-CC00107 has on this 19th day of November, 2018 been removed to the United States District Court for the Eastern District Missouri, Eastern Division. As grounds for removal, Defendants state:

1. On August 13, 2018, Tony Richardson, Devin Richardson, Dalton N. Richardson, Kane B. Taylor, Bailey J. Miller and Dominick Upton (“Plaintiffs”) filed a Petition in the Circuit Court of Lincoln County in an action titled, *Tony Richardson, et al. v DG Foods, Inc., et al.*, case number 18L6-CC00107 alleging violations of the Missouri Human Rights Act and factually related common law claims.

2. On October 23, 2018 Plaintiffs filed a First Amended Petition in the Circuit Court of Lincoln County withdrawing their MHRA claims and alleging violations of Title VII of the Civil Rights Act of 1964 and 42 U.S. C. § 2000.

3. A copy of the pleadings, processes, and orders filed in this action are attached as Exhibit A. No further proceedings have been had in this action or served on Defendants.

4. This notice of removal is filed within 30 days of the serving of Plaintiffs' First Amended Petition setting forth new federal claims for relief, and is timely filed under 28 U.S.C. § 1446(b)(3). Plaintiffs raised claims under federal law for the first time in the First Amended Petition.

5. In Plaintiffs' First Amended Petition, Plaintiffs purport to allege, *inter alia*, violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000e et seq. *See* Ex. A, Pet. ¶¶ 49, 76–112; 113–121; 164–171; 172–189; 226–245.

6. Federal courts have original jurisdiction over claims or rights “arising under the Constitution, treaties, or laws of the United States.” 28 U.S.C. § 1441(b). As such, this Court has original jurisdiction over this action in that Plaintiffs allege violations of rights arising under federal law.

7. Plaintiffs also allege causes of action under Missouri law. *See* Counts III–VI, IX–XI, XIII–XIV. Plaintiffs alleged that their common law claims arise out of the same facts as their Title VII claims. Ex. A, Pet. ¶¶ 50–75.

8. In any civil action of which the Federal District Courts have original jurisdiction, “the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.” 28 U.S.C. § 1367(a). The

Federal District Court may exercise jurisdiction over state-law claims that may be viewed as part of the same case if they “derive from a common nucleus of operative fact” as the federal claim. *Mine Workers v. Gibbs*, 383 U.S. 715 (1966).

9. Plaintiff’s allegations arising under Missouri law derive from a “common nucleus of operative fact” as the gravamen of Plaintiffs’ claims arises from Plaintiff’s claims purportedly raised under federal law.

10. Accordingly, this Court has original federal question jurisdiction over this case pursuant to 28 U.S.C. § 1331, supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a) and this case is properly removed to this Court pursuant to 28 U.S.C. § 1446(b)(3).

11. All Defendants consent to the removal of this action.

12. Written notice of the filing of this Joint Notice of Removal will be given to Plaintiff’s counsel, as required by law.

13. A true and correct copy of this joint notice of removal will be filed with the Clerk for the Circuit Court of Lincoln County, as required by law.

WHEREFORE, Defendants give notice that the above action initiated in the Circuit Court of Lincoln County, is hereby removed to the United States District Court for the Eastern District of Missouri, Eastern Division for the reasons stated above.

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Attorneys for Defendant Keisha Sohn

CERTIFICATE OF SERVICE

I hereby certify that on November 19, 2018, the foregoing was filed electronically with the Clerk of the Court and will be served by U.S. Mail and by operation of the Court's electronic filing system upon the following:

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/s/ Robert A. Kaiser