

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

| | | |
|---|---|----------------|
| DALE E. NORTH, individually, and on |) | |
| behalf of all others similarly situated |) | |
| |) | |
| Plaintiff, |) | |
| |) | C.A. No. _____ |
| |) | |
| v. |) | |
| |) | |
| WYNDHAM WORLDWIDE |) | |
| OPERATIONS, INC., WYNDHAM |) | |
| VACATION OWNERSHIP, INC., and |) | |
| WYNDHAM VACATION RESORTS, INC.) |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441(a), (b) and § 1446, Defendants Wyndham Worldwide Operations, Inc., Wyndham Vacation Ownership, Inc., and Wyndham Vacation Resorts, Inc. (collectively “Defendants”), file this Notice of Removal to the United States District Court for the District of South Carolina, Florence Division. Removal is proper based on the following grounds:

1. Plaintiff Dale E. North initiated a civil action captioned *Dale E. North, individually, and on behalf of all others similarly situated v. Wyndham Worldwide Operations, Inc., Wyndham Vacation Ownership, Inc., and Wyndham Vacation Resorts, Inc.*, Civil Action No. 2015-CP-26-3038, in the Court of Common Pleas of Horry County, South Carolina.

2. Defendants were served with a copy of the Summons and Complaint on May 1, 2015. The documents attached hereto as “Exhibit A” constitute all of the process and pleadings received by Defendants in this action to date. Defendants have not served any answer or responsive pleadings to the Complaint, nor made any appearances or argument before the State

Court.

3. Removal is proper under 28 U.S.C. § 1441(a) because this Court has original jurisdiction of this action pursuant to 28 U.S.C. § 1331, as this action involves claims arising under the laws of the United States – specifically, the Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.* (“FLSA”).

4. In the Complaint, Plaintiff alleges that he “brings this action on behalf of himself and all others similarly situated to remedy violations of the Fair Labor Standards Act of 1938 (“FLSA”), 29 U.S.C. § 102, *et. seq.*,” (Compl. ¶ 1.) Plaintiff’s fourth cause of action is captioned “Violation of the Fair Labor Standards Act” and Plaintiff alleges that “Defendants willfully violated the Fair Labor Standards Act by failing to pay overtime wages due for all overtime hours worked each week, in contravention of the statute.” (*Id.* at ¶ 77.)

5. Thus, this Court has jurisdiction over Plaintiff’s overtime claim because, under the well-pleaded facts stated in the Complaint, Plaintiff alleges a claim against Defendants that arises solely under the FLSA.

6. This Court has original jurisdiction over claims arising under the FLSA. *See* 28 U.S.C. § 1331; 29 U.S.C. § 216(b). Accordingly, this case is removable on the basis of federal question jurisdiction pursuant to 28 U.S.C. §§ 1331, 1441(a).

7. The case is also removable on the basis of diversity jurisdiction, as Plaintiff alleges that he is a citizen and resident of South Carolina, and that Defendants are organized under the laws of a state other than South Carolina. (Compl. at ¶¶ 2, 4-6.) Defendants’ principal place of business is also in a state other than South Carolina. Given that Plaintiff seeks relief on behalf of himself and a class of others similarly situated as well as liquidated damages and attorney’s fees, the amount in controversy in this matter exceeds \$75,000. Thus, removal under

28 U.S.C. § 1441(b) is also proper.

8. Defendants' Notice of Removal has been filed within 30 days after the initial receipt by Defendants of a copy of Plaintiff's Complaint in accordance with 28 U.S.C. § 1446(b).

9. Removal to this Court is proper pursuant to 28 U.S.C. § 1446(a) because it is in the district and division embracing the place where the state court action is pending.

10. The district court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367(a), to the extent they are not preempted by the FLSA.

11. This Notice of Removal will be filed promptly with the State Court as required by 28 U.S.C. § 1446(d).

12. By copy of this document and in accordance with the Certificate of Service, Defendants are providing notice to all parties in this action of the filing of this Notice of Removal pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, Defendants give notice that the referenced action pending in the Court of Common Pleas for Horry County, South Carolina, Civil Action No. 2015-CP-26-3038, has been removed to this Court.

Respectfully submitted,

s/ T. Chase Samples

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ATTORNEY FOR DEFENDANTS

Dated: June 1, 2015

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing Notice of Removal has been served upon the following through ECF notification and by United States mail, postage prepaid, on this 1st day of June, 2015.

William E. Hopkins, Jr., Esq.
HOPKINS LAW FIRM, LLC
12019 Ocean Highway
Pawleys Island, SC 29585

*s/T. Chase Samples*_____

T. Chase Samples

Dated: June 1, 2015