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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

SHERRIE CLEVINGER and THERESA REISFELT, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

RIVIANA FOODS INC., a Delaware Corporation, d/b/a RONZONI; and NEW WORLD PASTA COMPANY, a Delaware Corporation,

Defendants.

Case No. 8:19-cv-1572

DEFENDANT RIVIANA FOODS INC.'S NOTICE OF REMOVAL

Complaint Filed: July 11, 2019
Removal Date: August 14, 2019

Trial Date: None Assigned

1 **NOTICE OF REMOVAL**

2 Defendant Riviana Foods Inc., (“Riviana”), pursuant to 28 U.S.C. § 1441(a),
3 hereby removes the above-captioned action (the “Action”) from the Superior Court
4 of the County of Orange (“Orange County Superior Court”) to the United States
5 District Court for the Central District of California, on the following grounds:

6 **I. INTRODUCTION**

7 1. This Action was commenced on July 11, 2019, by the filing of a
8 complaint (the “Complaint”), captioned as *Sherrie Clevenger, et al. v. Riviana Foods*
9 *Inc., et al.*, Case No. 30-2019-01082583-CU-BT-CXC, in Orange County Superior
10 Court. True and correct copies of the Complaint, the summons, and all process,
11 pleadings, and orders served on Defendant are attached to this Notice of Removal as
12 “Exhibit A,” as required by 28 U.S.C. § 1446(a).

13 2. Riviana was served with the Summons and Complaint on July 16, 2019.
14 *See Exhibit A*. Specifically, Plaintiffs served the Summons and Complaint upon CT
15 Corporation, Riviana’s Agent for Service of process, by process server on July 16,
16 2019.

17 3. Promptly after filing this Notice of Removal, Riviana will provide
18 written notice of the removal to Plaintiffs through their attorneys of record in the
19 Action, as well as to the Clerk of the Orange County Superior Court, as required by
20 28 U.S.C. § 1446(d).

21 4. The Action properly may be removed to the United States District Court
22 for the Central District of California because this Court has original jurisdiction over
23 Plaintiffs’ claims pursuant to the Class Action Fairness Act of 2005 (“CAFA”), 28
24 U.S.C. § 1332(d).

25 5. No admission of fact, law, liability, or damages is intended by this Notice
26 of Removal, and all defenses, affirmative defenses, objections and motions hereby are
27 reserved.

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1 **B. There Are At Least 100 Members in Plaintiffs’ Proposed Class**

2 10. This action has been styled as a class action. *See* Compl. ¶¶ 24-32.

3 11. CAFA requires the existence of at least 100 members in Plaintiff’s
4 proposed class. 28 U.S.C. § 1332(d)(5)(B).

5 12. Plaintiffs seek to represent “[a]ll persons who made retail purchases in
6 the State of California of Ronzoni ® ‘Garden Delight,’ ‘Gluten Free,’ ‘Smart Taste,’
7 or ‘SuperGreens’ pasta products from July 12, 2015, through the date a class is
8 certified.” Compl. ¶ 24.

9 13. According to “all outlet” sales data provided to Riviana by Information
10 Resources, Inc. (“IRI”), between June 21, 2015, and June 16, 2019, consumers spent
11 \$5,288,765 in California stores on the pasta varieties referenced in Plaintiffs’ class
12 definition: 12-ounce boxes of Ronzoni Garden Delight, Gluten Free, Smart Taste, and
13 SuperGreens. *See* Ferenbach Decl. ¶ 4. Although Riviana does not know the
14 identities of these purchasers, each box of pasta sells for just a few dollars.
15 Accordingly, it stands to reason that the putative class, responsible for nearly \$5.3
16 million in purchases, comprises more than 100 persons.

17 **C. The Amount in Controversy Exceeds \$5 Million**

18 14. Plaintiffs’ claim in this case arises from the purchase of Ronzoni
19 specialty pasta products that Plaintiffs allege contained nonfunctional slack-fill.

20 15. Riviana denies Plaintiffs’ claims of wrongdoing, but the allegations in
21 Plaintiffs’ Complaint and the total amount of compensatory damages, punitive
22 damages, attorneys’ fees, injunctive relief, restitution, and other monetary relief at
23 issue in this action, on an aggregate, class-wide basis, exceeds CAFA’s \$5 million
24 jurisdictional threshold, based on the IRI sales data showing nearly \$5.3 million in
25 sales during the putative class period. *See Saulic v. Symantec Corp.*, No. SA CV 07-
26 610 AHS (PLAx), 2007 WL 5074883, at *8 (C.D. Cal. Dec. 26, 2007) (considering
27 facts presented in notice of removal, including defendant’s declaration, along with
28 plaintiffs’ allegations, in finding jurisdictional limits satisfied under CAFA).

1 Plaintiffs' complaint appears at least to contemplate the provision of refunds of the
2 purchase price for the pasta.

3 16. Accordingly, this case meets all of CAFA's requirements for removal
4 and is timely and properly removed by the filing of this Notice.

5 **V. CONCLUSION**

6 17. WHEREFORE, having provided notice as required by law, the above-
7 entitled action should be removed from the Orange County Superior Court.

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9 Dated: August 14, 2019

DRINKER BIDDLE & REATH LLP

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By: s/Ryan M. Salzman

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Ryan M. Salzman

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Attorneys for Defendant
RIVIANA FOODS, INC.

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