

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION

Oscar Fernandez, Individually and as
Administrator of the Estate of Isidro
Fernandez,

Plaintiff,

vs.

Tyson Foods, Inc.; Tyson Fresh Meats,
Inc.; John H. Tyson; Noel W. White;
Dean Banks; Stephen R. Stouffer; Tom
Brower; Tom Hart; Cody Brustkern,
John Casey, and Bret Tapken,

Defendants.

CASE NO. 20-cv-2079-MAR

NOTICE OF APPEAL

Notice is hereby given that all Defendants appeal to the United States Court of Appeals for the Eighth Circuit from the Order entered December 28, 2020 (Doc. 49) remanding this case to the Iowa District Court for Black Hawk County, as well as any and all orders related to Doc. 49. Defendants are entitled to appeal the remand order as of right because this case was removed under 28 U.S.C. § 1442(a). *See* 28 U.S.C. § 1447(d) (“an order remanding a case to the State court from which it was removed pursuant to section 1442 ... of this title shall be reviewable by appeal or otherwise”); *see, e.g., Jacks v. Meridian Res. Co., LLC*, 701 F.3d 1224 (8th Cir. 2012) (appeal of federal officer removal as of right).

Because of the appeal as of right, it is Defendants’ understanding that under Federal Rule of Civil Procedure 62(a) this Court’s remand order is automatically

stayed through January 27, 2020—30 days after its issuance. *See, e.g., Northrop Grumman Tech. Servs., Inc. v. DynCorp Int'l LLC*, No. 1:16cv534, 2016 WL 3180775, at *1–*2 (E.D. Va. June 7, 2016). In addition, Defendants intend to move in this Court for a stay through the pendency of this appeal. *See generally* Fed. R. App. P. 8(a).

Respectfully submitted,

/s/ Kevin J. Driscoll

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CERTIFICATE OF SERVICE

I hereby certify that on December 31, 2020, a true and correct copy of the foregoing document was served upon all counsel of record via the Court's CM/ECF system as follows:

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