

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

AMERICAN ASSOCIATION OF PEOPLE)
WITH DISABILITIES, FEDERATION OF)
WOMEN’S CLUBS OVERSEAS, INC., NEW)
MEXICO PUBLIC INTEREST RESEARCH)
GROUP EDUCATION FUND, and)
SOUTHWEST ORGANIZING PROJECT,)

Plaintiffs,)

CIVIL ACTION NO: _____

v.)

MARY HERRERA, in her capacity as)
Secretary of State,)

Defendant.)

NOTICE OF REMOVAL

TO THE HONORABLE COURT:

Pursuant to 28 U.S.C. § 1441, Defendant Mary Herrera hereby removes this action from the Second Judicial District Court of Bernalillo County, New Mexico. In support of this removal, Defendant would show this Court as follows:

I. INTRODUCTION

1. On July 24, 2008, Plaintiffs filed a Complaint for Declaratory and Injunctive Relief in the Second Judicial District Court of Bernalillo County. Plaintiffs allege violations of the First and Fourteenth Amendments to the United States Constitution, a violation of the National Voter Registration Act of 1993 (42 U.S.C. § 1973gg, *et seq.*), a violation of 28 U.S.C. § 1983, and violations of Article II, §§ 8 and 17 and Article VII, § 3 of the New Mexico Constitution. Plaintiffs seek a declaratory judgment, a preliminary and permanent injunction, and nominal damages. It is this action that Defendant is removing to this Court.

II. ARGUMENT

2. Removal is proper under 28 U.S.C. § 1441(b), which provides for removal of “[a]ny civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States. . . .” Pursuant to 28 U.S.C. § 1441(a), such cases are to be removed “to the district court of the United States for the district and division embracing the place where such action is pending.”

3. This Court, obviously the United States District Court “embracing the place where” Plaintiffs’ action has been filed, has original jurisdiction of Plaintiffs’ claims because Plaintiffs have asserted causes of action under the United States Constitution, the National Voter Registration Act of 1993, and 28 U.S.C. § 1983.

4. Local Rule 81.1(a) requires a party removing an action from state court to file with this Court “legible copies of records and proceedings from the state court action within thirty (30) calendar days after filing notice of removal.” Plaintiffs’ Complaint is attached as Exhibit 1 and the summons issued to Defendant is attached as Exhibit 2.

5. This notice is being timely filed in accordance with 28 U.S.C. § 1446(a), being filed within 30 days after receipt by Defendant of a copy of the initial pleading in this lawsuit.

III. CONCLUSION

For the foregoing reasons, Defendant Mary Herrera prays that this action be removed to this Court for determination, that all further proceedings in the state court suit be stayed, and that Defendant be granted all additional relief to which she may be justly entitled.

Respectfully submitted,

GARY K. KING
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CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing motion on Plaintiffs' counsel of record as follows:

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