

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF	:	
PENNSYLVANIA,	:	
et al.,	:	Civil Action No. 2:17-cv-5137
Plaintiffs,	:	
	:	
v.	:	
	:	
THE COMMONWEALTH OF	:	
PENNSYLVANIA, et al.,	:	
	:	
Defendants.	:	
	:	

**DEFENDANT, MICHAEL C. TURZAI’S RESPONSE TO EMERGENCY MOTION TO  
WITHDRAW NOTICE OF REMOVAL**

Defendant, Michael C. Turzai, in his official capacity as Speaker of the Pennsylvania House of Representatives, by and through his undersigned counsel, respectfully submits the within Response to Defendant, Joseph B. Scarnati III’s Emergency Motion to Withdraw Notice of Removal (ECF No. 9).

1. On November 14, 2017, Senator Scarnati filed a Notice of Removal of this action from the Pennsylvania Supreme Court in which it was represented to this Court that Senator Scarnati had the consent to removal under 28 U.S.C. § 1441 of Speaker Turzai. (ECF No. 1 at ¶ 24).

2. This representation is false.

3. At no point in time did the undersigned counsel for Speaker Turzai, Kathleen A. Gallagher, ever indicate to counsel for Senator Scarnati, Matthew Haverstick, that Speaker Turzai consented to the removal of this action under 28 U.S.C. § 1441. Indeed, Attorney

Gallagher never communicated with Attorney Haverstick regarding the Notice of Removal prior to the filing of the same.

4. To the contrary, on Sunday, November 12, 2017 Attorney Gallagher was advised that Attorney Haverstick believed the action was subject to removal under 28 U.S.C. § 1443, which statute does not require the consent of all Defendants prior to removal.

5. Speaker Turzai was not interested in pursuing a removal action.

6. During the afternoon of November 13, 2017, Attorney Gallagher learned that Attorney Haverstick would file a removal solely on behalf of Senator Scarnati.

7. At all times, the only ground for removal ever discussed was under Section 1443.

8. Neither Attorney Gallagher nor Speaker Turzai had any knowledge of the intent to remove this action under 28 U.S.C. § 1441. It was not until the undersigned counsel received the filed copies of the Notice of Removal on Wednesday, November 15, 2017 via e-mail service from Attorney Joshua Voss and a request for written consent to the same that it was discovered that removal was sought under Section 1441.

9. Indeed, counsel for Speaker Turzai was not provided with the opportunity to review in advance the Notice of Removal prior to its filing.

10. In light of the false representation contained in the Notice of Removal, Attorney Gallagher sent an e-mail to Attorney Haverstick on November 16, 2017 at 12:40 p.m. indicating that “[r]emoval pursuant to Section 1441, however, was never discussed and no consent was given to you or anyone else.” *See Exhibit A*, attached hereto, E-mail dated 11/16/17 to Attorney Haverstick.

11. Accordingly, Attorney Gallagher requested that an amended notice of removal be filed to correct the false statement regarding consent. *See Exhibit A*.

12. Instead of filing an amended notice of removal, Senator Scarnati filed his Emergency Motion to Withdraw Notice of Removal in which, once again, it is improperly represented that counsel for Speaker Turzai “consented to removal” but “does not now consent to the Notice as filed,” implying that Speaker Turzai or his counsel previously consented to the removal as filed. (ECF No. 9).

13. Consequently, Speaker Turzai is left with no choice but to file the within Response in order to correct the record and the false representations made to this Court.

14. To this end, and to be clear, at no point in time did Speaker Turzai’s counsel or anyone else acting on Speaker Turzai’s behalf state to Attorney Haverstick, or anyone else acting on Senator Scarnati’s behalf, that Speaker Turzai consented to removal pursuant to 28 U.S.C. § 1441.

Dated: November 16, 2017

Respectfully submitted,

**CIPRIANI & WERNER PC**

*/s/ Kathleen A. Gallagher*

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*Attorneys for Defendant Michael C. Turzai,  
in his official capacity as Speaker of the  
Pennsylvania House of  
Representatives*

**CERTIFICATE OF SERVICE**

I hereby certify that on November 16, 2017, I caused the foregoing Response to Defendant, Joseph B. Scarnati III's Emergency Motion to Withdraw Notice of Removal to be filed with the United States District Court for the Eastern District of Pennsylvania via the Court's CM/ECF system, which will provide electronic notice to all counsel and parties of record.

**CIPRIANI & WERNER PC**

/s/ Kathleen A. Gallagher  
Kathleen A. Gallagher

**From:** [Kathleen Gallagher](#)  
**To:** ["mhaverstick@kleinbard.com"](mailto:mhaverstick@kleinbard.com)  
**Subject:** LWV v. Wolf et al./Notice of Removal  
**Date:** Thursday, November 16, 2017 12:39:36 PM

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Matt:

As you are aware, I represent the Speaker in the above referenced litigation. In the Notice of Removal which you recently filed in the Eastern District, you aver that the Speaker affirmatively consented to the filing of the Notice. That averment is false. The only potential grounds for removal which were ever brought to my attention via Attorneys Torchinsky and Paszament were a possible removal pursuant to 28 U.S.C. §1443, which, as you are aware, does not require consent of all Defendants prior to removal. The Speaker had no objection to your proceeding in that manner on behalf of Senator Scarnati specifically because Section 1443 does not require consent. Removal pursuant to Section 1441, however, was never discussed and no consent was given to you or anyone else.

Accordingly, please file an amended Notice of Removal to correct your false statement prior to the hearing before Judge Baylson which is scheduled for today at 2:00 PM.

I anticipate your prompt cooperation in this regard.

Best regards,

**KATHLEEN GALLAGHER** | ATTORNEY

**CIPRIANI & WERNER PC**

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