

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

James Morris,)	C/A No.: _____
)	
Plaintiff,)	[State Court Civil Action #2017-40-06034]
)	
vs.)	NOTICE OF REMOVAL
)	
City of Columbia,)	
)	
_____ Defendant.)	

TO THE HONORABLE JUDGE OF THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF SOUTH CAROLINA, COLUMBIA DIVISION:

The Defendant City of Columbia (“City”), by way of removal, pursuant to 28 U.S.C. §1331, §1441(a) and (b), and §1446(a), (b) and (d), would respectfully show unto this Court:

1. This action was commenced by the filing of a Summons and Complaint on October 6, 2017, in the Court of Common Pleas for Richland County, South Carolina. The Summons and Complaint were served on the City Clerk pursuant to Rule 4(d)(6), SCRCPP, on October 11, 2017. The action is now pending in the Court of Common Pleas for Richland County, South Carolina, which is located within the Columbia Division of this Court by reason of 28 U.S.C. §121(2). The Complaint alleges claims pursuant to 42 U.S.C. §1983 and state law.

2. Thirty days have not elapsed since the receipt of the Complaint by the Defendant upon whom it has been served and one year has not elapsed since the commencement of this action. The City has not yet answered or pled responsively to the Complaint.

3. Pursuant to 28 U.S.C. §1441(a), the Defendant may remove to the District Court of the United States, for the district and division embracing the place where such action is pending, any civil action brought in a state court of which the district courts of the United States have original jurisdiction. Pursuant to 28 U.S.C. §1441(b), any civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution or laws of the United States shall be removable without regard to the citizenship or residence of the parties.

4. By virtue of 28 U.S.C. §§1331 and 1343(a), the United States District Court has original jurisdiction of any civil action for a claim under 42 U.S.C. §1983. Section 1983 does not expressly prohibit removal and the existence of concurrent jurisdiction in the state court over claims under 42 U.S.C. §1983 is insufficient, standing alone, to defeat the right of removal granted the Defendant under 28 U.S.C. §1441.

5. By virtue of the foregoing, the Defendant City hereby removes this action to the United States District Court for the District of South Carolina, Columbia Division.

6. This Court has supplemental jurisdiction over the Plaintiff's state law claims which derive from a common nucleus of operative fact with the Federal law claims. United Mine Workers v. Gibbs, 383 U.S. 715, 86 S.Ct. 1130, 16 L.E.2d 218 (1966).

7. The Defendant City files herewith in this Court a copy of all process, pleadings and orders served by or upon them in this action, as a part of the Notice of Removal, which consists of the Summons and Complaint dated October 5, 2017.

8. The Clerk of Court for Richland County, South Carolina, from which this action is removed, and Plaintiff's counsel shall promptly be given written Notice that the Notice of Removal has been filed and shall be provided a copy of the Notice of Removal.

WHEREFORE, the Defendant prays that this Notice of Removal be accepted as sufficient for removal of this action to this Court.

s/ Dana M. Thye
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Attorneys for Defendant

November 9, 2017
Columbia, South Carolina