

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. WINDSOR,

Plaintiff,

v.

JAMES N. HATTEN, Anniva Sanders, J. White,
B. Gutting, Margaret Callier, B. Grutby,
Douglas J. Mincher, Jessica Birnbaum,
Judge William S. Duffey, Judge Orinda D.
Evans, Judge Julie E. Carnes, John Ley,
Judge Joel F. Dubina, Judge Ed Carnes,
Judge Rosemary Barkett, Judge Frank M.
Hull, Jane Doe 1, Jane Doe 2, Jane Doe 3,
Jane Doe 4, Jane Doe 5, John Doe 1,
John Doe 2, and Does 8 to 1000,

Defendants.

CIVIL ACTION NO.

NOTICE OF REMOVAL

The United States of America (the "United States"), by and through the United States Attorney for the Northern District of Georgia, respectfully files this notice removing this cause from the Superior Court of Fulton County, Georgia, to this Court, on behalf of the following employees of the Clerk of Court of the United States District Court, Northern District of Georgia: James N. Hatten, Douglas J. Mincher, Anniva Sanders, Joyce White, Beverly Gutting, Margaret

Callier and Jessica Birnbaum (collectively, the “Clerk of Court Defendants”); and, as grounds therefor, states as follows:

1. On May 20, 2011, plaintiff William M. Windsor (“Plaintiff”) filed a civil complaint (the “Complaint”) in the Superior Court of Fulton County, styled William M. Windsor v. James M. Hatten, Anniva Sanders, J. White, B. Gutting, Margaret Callier, B. Grutby, Douglas J. Mincher, Jessica Birnbaum, Judge William S. Duffey, Judge Orinda D. Evans, Judge Julie E. Carnes, John Ley, Judge Joel F. Dubina, Judge Ed Carnes, Judge Rosemary Barkett, Judge Frank M. Hull, Jane Doe 1, Jane Doe 2, Jane Doe 3, Jane Doe 4, Jane Doe 5, John Doe 1, John Doe 2, and Does 8 to 1000, Case No. 2011CV200971 (the “State Court Action”), naming as defendants the following employees of the Clerk of Court of the U.S. District Court, Northern District of Georgia: James N. Hatten, Douglas J. Mincher, Anniva Sanders, Joyce White, Beverly Gutting, Margaret Callier and Jessica Birnbaum.

2. On May 24, 2011, plaintiff served the Complaint and Summons on the Honorable Orinda D. Evans. On June 1, 2011, plaintiff served the Complaint and Summons on the Honorable William S. Duffey, Jr., James N. Hatten, Jessica Birnbaum, Margaret Callier, B. Gutting, Douglas J. Mincher and J. White. On

June 7, 2011, plaintiff served the Complaint and Summons on the Honorable Julie E. Carnes. A copy of the Complaint is attached hereto as Exhibit "A," as required by 28 U.S.C. § 1446(a).

3. No further proceedings have occurred and no orders have been entered by the Superior Court of Fulton County in the State Court Action.

4. The Complaint alleges common law torts, violations of state law and constitutional violations all of which arise out of the Clerk of Court Defendants' performance of their federal job duties.

5. The matter was referred to the United States Attorney for the Northern District of Georgia, who completed a review and certified that with respect to the matters referred to in the Complaint, the Clerk of Court Defendants were acting within the scope of their employment with the United States District Court for the Northern District of Georgia at all time relevant to this action. The certification is attached hereto as Exhibit "B." The United States is separately filing a notice that pursuant to the provisions of the Federal Tort Claims Act (the "FTCA"), 28 U.S.C. §§ 2671, et seq., the United States must be substituted for each of the Clerk of Court Defendants with regard to the non-constitutional claims filed against them.

6. Pursuant to the FTCA, the United States is the only proper defendant to

the non-constitutional claims asserted by Plaintiff in this action, as Plaintiff's exclusive remedy is provided by the FTCA, the Clerk of Court Defendants are immune from suit and liability with regard to those claims, and the United States District Court for this district has exclusive jurisdiction over those claims. See 28 U.S.C. §§ 1346(b)(1), 2679.

7. This action is one that may be removed to the United States District Court pursuant to 28 U.S.C. § 1442(a)(1) and 28 U.S.C. § 2679.

WHEREFORE, the United States, on behalf of the Clerk of Court Defendants, removes the State Court Action to this Court for such further proceedings as may be appropriate. The United States has submitted with this Notice of Removal a proposed order that would constitute a Writ of Certiorari directing the Clerk of the Superior Court of Fulton County, Georgia, to deliver forthwith to the Clerk of Court for the Northern District of Georgia a complete certified copy of the entire record in the Superior Court.

Respectfully submitted, this 13th day of June, 2011.

SALLY QUILLIAN YATES
UNITED STATES ATTORNEY

/s/Christopher J. Huber
Assistant U.S. Attorney
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CERTIFICATE OF COMPLIANCE

I certify that the documents to which this certificate is attached have been prepared with one of the font and point selections approved by the Court in LR 5.1B (Times New Roman, 14 pt.) for documents prepared by computer.

This 13th day of June, 2011.

/s/Christopher J. Huber

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing Notice of Removal and proposed Order on the plaintiff to the State Court Action by causing true and correct copies thereof to be placed in the U.S. Mail, with proper postage affixed, and addressed as follows:

William M. Windsor
P.O. Box 681236
Marietta, Georgia 30068

This 13th day of June, 2011.

/s/Christopher J. Huber