

**IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

MELVIN JOHNSON, *et al.*,

*

Plaintiffs,

*

v.

*

Civil Action No.

MARYLAND STATE BOARD OF
ELECTIONS, *et al.*,

*

Defendants.

*

* * * * *

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331 and 1441, defendant Linda Lamone, by her attorneys, gives notice of the removal of this action from the Circuit Court for Prince George's County, Maryland, to the United States District Court for the District of Maryland.

The grounds for removal are as follows:

1. The plaintiffs, Melvin Johnson and Qaaree Palmer, commenced this civil action against defendants Prince George's County Board of Elections and Maryland State Board of Elections on November 21, 2016, by filing a complaint in the Circuit Court for Prince George's County, which was docketed as Case No. CAL16-42799 (the "State court action"). Plaintiffs then filed an amended complaint against these same two defendants on December 9, 2016. Next, plaintiffs filed a second amended complaint on December 14, 2016. (*See* Exhibit A, Second Am. Compl.) The second amended complaint again named as defendants the Prince George's County Board of Elections and the Maryland State Board

of Elections. For the first time in the second amended complaint, defendant Linda Lamone was added as a party to the case and named as a defendant.

2. The Prince George's County Board of Elections was dismissed as a party to the State court action on August 24, 2016.

3. Although Ms. Lamone was designated as a defendant in the second amended complaint, plaintiffs did serve her with a summons and complaint for several months, and the Circuit Court for Prince George's County did not issue a summons directed to her until September 18, 2017. On that date, September 18, 2017, plaintiffs, for the first time, hand-delivered to Ms. Lamone a summons and a copy of the second amended complaint.

4. In accordance with 28 U.S.C. § 1446(b), this notice of removal is being timely filed on September 26, 2017, within 30 days after the summons and second amended complaint were served on Ms. Lamone in the State court action. *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999).

5. In accordance with 28 U.S.C. § 1446(a) and Local Rule 103.5(a), defendant Linda Lamone is filing, contemporaneously with this Notice, true and legible copies of all process, pleadings, documents and orders which she has received. These documents are attached as Exhibit B.

6. The United States District Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1441 because this case involves claims or rights arising under the Constitution and laws of the United States. In their complaint, plaintiffs assert violations of 42 U.S.C. § 1983 and the First and Fourteenth Amendments to the United States Constitution, the Maryland Constitution and the Maryland Declaration of Rights. (Exh. A, Second Am.

Compl. ¶¶ 41-50.) Plaintiffs seek monetary damages and a permanent injunction directing the defendants to provide all pre-trial detainees and those individuals serving court-ordered periods of imprisonment for misdemeanor offenses who are eligible to vote receive official ballots voting and elections information including the opportunity to cast ballots and to provide polling places in detention centers and correctional facilities owned, supervised operated by the State of Maryland and local governments in Maryland. (Exh. A, Second Am. Compl. ¶¶ 15, 16, 53, 55, 57, pp. 19-21 Wherefore clause.) The complaint presents federal questions concerning the laws and regulations governing voting rights, and defendants have colorable federal defenses. *See Lontz v. Tharp*, 413 F.3d 435, 439 (4th Cir. 2005) (“[R]emoval is appropriate if the face of the complaint raises a federal question.”).

7. Accordingly, removal is proper under 28 U.S.C. § 1441 for the additional reason that plaintiffs’ complaint raises substantive issues of federal law concerning voting rights, equal protection and due process of law.

8. Under 28 U.S.C. § 1446(b)(2)(C), “[i]f defendants are served at different times, and a later-served defendant files a notice of removal, any earlier-served defendant may consent to the removal even though the earlier-served defendant did not previously initiate or consent to the removal.” Defendant Maryland State Board of Elections consents to removal of the State court action to this Court. *See Exhibit C attached hereto.*

9. Defendant Linda Lamone will promptly file a copy of this notice of removal with the Clerk of the Circuit Court for Prince George's County as required by 28 U.S.C. § 1446(d).

Respectfully submitted,

BRIAN E. FROSH
Attorney General of Maryland



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(410) 576-6955-fax

Attorneys for Defendant Linda Lamone

Dated: September 26, 2017

CERTIFICATE OF SERVICE

I certify that on this 26th day of September, 2017, a copy of the foregoing Notice of Removal was served by first-class mail, postage prepaid, on:

J. Wyndal Gordon, Esquire
20 South Charles Street, Suite 1102
Baltimore, Maryland 21201

Latoya Francis-Williams, Esquire
3606 Liberty Heights Avenue
Baltimore, Maryland 21215

Raouf M. Abdullah, Esquire
14714 Main Street
Upper Marlboro, Maryland 20772

Lanet Scott, Esquire
P.O. Box 471323
District Heights, Maryland 20753



JOHN J. KUCHNO

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Melvin Johnson and Qaaree Palmer

DEFENDANTS

Maryland State Board of Elections and Linda Lamone

(b) County of Residence of First Listed Plaintiff Prince George's

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Anne Arundel

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)
(See attachment)

Attorneys (If Known)

John J. Kuchno, Assistant Attorney General, Office of the Attorney General, 200 St. Paul Place, 20th Floor, Baltimore, MD 21202, 410-576-6441

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice	PERSONAL INJURY ☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 840 Trademark SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 440 Other Civil Rights ☒ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education	PRISONER PETITIONS Habeas Corpus: ☐ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. secs. 1331, 1441, 42 U.S.C. sec. 1983

Brief description of cause:

Alleged violations of civil rights and voting rights

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.DEMAND \$
75,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

09/26/2017

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

Attachment to Civil Cover Sheet

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