

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

US DISTRICT COURT
WESTERN DIST ARKANSAS
FILED
11/15/2018

DEBORAH JOYCE GOODWIN	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 5:18-CV- <u>18-5226 PKH</u>
	)	
UNITED STATES SENATOR	)	
TOM COTTON	)	
	)	
Defendant.	)	

NOTICE OF REMOVAL FROM STATE COURT

PLEASE TAKE NOTICE that the defendant in the above-captioned action hereby removes it from the state court in which it was initiated to this Court. The grounds for removal are as follows:

1. This action was commenced and is pending in the District Court of Washington County, Arkansas, Springdale Department, Small Claims Division, as Case No. SC-18-89 (the “**Complaint**”). The Complaint, which is difficult to read and understand, appears to sue U.S. Senator Tom Cotton (“**Senator Cotton**”) for his actions with regard to the consideration and approval of Supreme Court nominations.

2. Without waiving the defense of invalid service, Senator Cotton’s office received a copy of the Complaint on October 17, 2018, and 30 days has not expired since receipt of the initial pleading setting forth the allegations upon which this proceeding is based.

3. A federal officer, or a person acting under the direction of a federal officer, is entitled to removal under 28 U.S.C. § 1442(a)(1) whenever a civil action or criminal prosecution is commenced against him “for or relating to any act under color of such office[.]” The “color of office” test is satisfied

if there is a “causal connection” between the charged conduct and asserted official authority, *Willingham v. Morgan*, 395 U.S. 402, 409 (1969).

4. Senator Cotton is a federal officer. The Complaint is for or relates to actions by Senator Cotton under color of office, and there is a causal connection between Senator Cotton’s performance of official duties as a federal officer and the Plaintiff’s civil action. In addition, Senator Cotton is entitled to numerous federal law defenses, including, but not limited to, Article III standing, the Speech and Debate Clause, art. 1, § 6, cl. 1, of the Constitution, and sovereign immunity.

5. Therefore, the Complaint is subject to removal pursuant to 28 U.S.C. § 1442(a)(1) as Senator Cotton is an officer of the United States and the Complaint’s allegations appear to be acts committed under the color of federal office.

6. A copy of the Plaintiff’s Complaint is attached hereto and incorporated herein and marked as “Government’s Exhibit A.”

WHEREFORE, the Defendant, Senator Cotton, prays that this action be removed from the above described State Court to the United States District Court for the Western District of Arkansas, Fayetteville Division.

Respectfully submitted,

DUANE (DAK) KEES
UNITED STATES ATTORNEY

By: /s/ Seth T. Creed
Seth T. Creed
Assistant U.S. Attorney
Bar No. 2010176
414 Parker Avenue
Fort Smith, Arkansas 72901
Telephone: (479) 494-4080
Fax: (479) 441-0569
Email: seth.creed@usdoj.gov

CERTIFICATE OF SERVICE

I, Seth T. Creed, Assistant U.S. Attorney for the Western District of Arkansas, hereby certify that on the 15th day of November, 2018, I filed the foregoing with the Clerk of Court, and I hereby certify that I have mailed the document by the United States Postal Service to the following:

Deborah Joyce Goodwin
342 Strawberry Meadows Place, Apt 205
Springdale, AR 72764

/s/ Seth T. Creed
Seth T. Creed
Assistant United States Attorney