

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

THOMAS K. BELL)

CASE NO.)

Plaintiff,)

JUDGE)

-vs-)

REMOVAL PETITION)

CITY OF CLEVELAND)

c/o Cleveland Law Department)

City Hall)

601 Lakeside Avenue)

Cleveland, Ohio 44114)

And)

Tremont West Development Corporation)

c/o Statutory Agent Christine Krossel)

1734 Brainard Avenue)

Cleveland, Ohio 44109)

And)

Stephanie Larkins (in her individual)

capacity and/or in her capacity as Inspector)

and/or Agent of the City of Cleveland in its)

Code Enforcement Division))

c/o Code Enforcement Division)

601 Lakeside Avenue)

Cleveland, Ohio 44114)

And)

John Moss (in his individual capacity)

and/or in his capacity with Tremont West)

Development Corporation))

2457 W. 11th Street)

Cleveland, Ohio 44113)

And)

Jane/John Doe(s))

Defendants.)

**TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OHIO, EASTERN DIVISION:**

Defendant City of Cleveland respectfully submits this Notice of Removal of this action to the United States District Court for the Northern District of Ohio, Eastern Division.

1. Plaintiff Thomas K. Bell filed an action in the Court of Common Pleas, Cuyahoga County, Ohio, Case No. CV-08-679153, captioned *Thomas K. Bell v. City of Cleveland, et al.*, demanding judgment against the Defendants. This action is based on alleged violations of the Constitution of the United States (Complt. ¶¶ 22, 23, 26, 32, 36, 43).
2. The actions described in Paragraph 1 of this Notice of Removal is completely civil in nature, and this Court has original jurisdiction under 28 U.S.C. §§ 1343(a)(1), 1343(a)(3), and/or 1331. This matter may be removed to this Court under 28 U.S.C. § 1441(a) and (b) because it is a civil action involving a claim or right over which this Court has original jurisdiction and/or involving a claim or right arising under the Constitution, treaties, or laws of the United States. The claims appear more fully in the Plaintiff's Complaint with TRO and Motion for Preliminary Injunction and Amended Complaint. (See Copy of Complaint with TRO and Motion for Preliminary Injunction and Amended Complaint attached as Exhibits 1 and 2, respectively, and incorporated by reference.)
3. Plaintiff's Complaint also contains state law claims over which this Court has supplemental jurisdiction under the provisions of 28 U.S.C. § 1367.
4. A copy of the Summons and the Complaint was served on Defendant Stephanie Larkins on December 26, 2008, Defendant Tremont West Development Corporation on

December 27, 2008, and on Defendant City of Cleveland on March 20, 2009. Defendant John Moss has not yet been served with the Complaint. (See all summonses issued in the matter of *Thomas K. Bell v. City of Cleveland, et al*, Court of Common Pleas, Cuyahoga County, Ohio, Case No. CV 08 679153 attached as Exhibit 3.)

5. Defendant Stephanie Larkins filed her Motion to Dismiss on January 7, 2009. Plaintiff filed his Brief in Opposition on January 23, 2009. The Court of Common Pleas, Cuyahoga County granted the Motion to Dismiss on March 18, 2009. (See Copy of Motion to Dismiss and Brief in Opposition attached at Exhibit 4.)

6. Defendants Tremont West Development Corporation and John Moss filed their Answer to Plaintiff's Complaint on February 26, 2009 and their Answer to Plaintiff's Amended Complaint on March 26, 2009. Counsel for Defendant Tremont West Development Corporation and John Moss gave the undersigned consent to removal of this action at the case management conference held in Cuyahoga County Common Pleas Court on March 18, 2009. (See Defendants Tremont West Development Corporation and John Moss's Answers to Plaintiff's Complaint and Amended Complaint attached as Exhibits 5 and 6.)

7. The undersigned counsel represents the City of Cleveland and Stephanie Larkins. Both Defendants consent to removal. Defendants Jane/John Doe(s) have not yet been served with the Complaint or Amended Complaint. Defendants Jane/John Doe(s) are not described in the Complaint or Amended Complaint with sufficient particularity to be identified. The remaining Defendants will join in the removal once they have been served.

8. A copy of Defendant's Notice of Removal will be filed with the Clerk of the Court of Common Pleas of Cuyahoga County, Ohio as required by 28 U.S.C. § 1446(d).

9. The Defendants also attach the docket from the Court of Common Pleas, all journal entries issued by the Court of Common Pleas, and Plaintiff's Pretrial Statement. (See, Copy of Court Docket and all journal entries in the matter of *Thomas K. Bell v. City of Cleveland, et al.*, Court of Common Pleas, Cuyahoga County, Ohio, Case No. CV 08 679153 and Plaintiff's Pretrial Statement attached as Exhibit 7.)

FOR THE FOREGOING REASONS, the Defendants request that this case against them, presently pending in the Court of Common Pleas, Cuyahoga County, Ohio, be removed to this Court and proceed according to law in this Court.

Respectfully submitted,

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Attorneys for Defendant City of Cleveland

CERTIFICATE OF SERVICE

I certify that on April 17, 2009, a copy of the above Notice of Removal was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

A copy of the above Notice of Removal was also served by regular U.S. Mail on April 17, 2009 on the following:

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And

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