

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

JOHN DOE,)
) CASE NO. 1:20-cv-00669
Plaintiff,)
)
vs.) JUDGE _____
)
OBERLIN COLLEGE, ET AL.,)
)
Defendants.)
)

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, Defendants Oberlin College, Oberlin College Board of Trustees, and Rebecca Mosely (“Defendants” or “Oberlin”), hereby remove this civil action from the Court of Common Pleas, Lorain County, Ohio, pending as Case No. 20CV200913 (the “State Court Action”), to the United States District Court for the Northern District of Ohio. Oberlin removes the State Court Action on the basis that this Court has original or supplemental jurisdiction over all of Plaintiff John Doe’s claims under 28 U.S.C. §§ 1331 or 1367(a) because the Complaint seeks relief under the U.S. Constitution, federal and Ohio law, and all claims form part of the same case or controversy.

I. Introduction.

1. The State Court Action was commenced on March 20, 2020, by Plaintiff—a citizen of Georgia—filing a Verified Complaint for Preliminary and Permanent Injunctive Relief and Money Damages (the “Complaint”). In addition to the above-named Defendants, Plaintiff also filed suit against unnamed Oberlin College Doe Defendants 1–10, who Plaintiff did not attempt to identify in his description of the parties. Compl., ¶¶ 22-25.

2. Also on March 20, 2020, Plaintiff filed an *Ex Parte* Motion for Temporary

Restraining Order and Preliminary Injunction (“Injunction Motion”), and an *Ex Parte* Motion to Proceed Under Pseudonym and Motion to File Verified Complaint Including Its Exhibits and All Case Documents Bearing the Plaintiffs’ Identifying Information Under Seal.

3. As of the time of filing this Notice of Removal, no Defendant has been served with the Complaint.

4. A copy of the Complaint, with exhibits, and the Injunction Motion, which Plaintiff’s counsel emailed to Oberlin on March 20, 2020, are attached to this Notice as Exhibit 1 and Exhibit 2, respectively.

5. Also attached to this Notice are: Plaintiff’s Supplemental Brief in Support of Injunction Motion (filed March 25, 2020) (Exhibit 3); and March 27, 2020 Order issued by The Hon. D. Chris Cook following a telephonic status conference with counsel (Exhibit 4).

6. Judge Cook denied Plaintiff’s motion for a temporary restraining order during the March 27 telephonic status conference.

7. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being filed with the Clerk of the Court of Common Pleas, Lorain County, Ohio, and written notice, including a copy of this Notice of Removal, is being provided to Plaintiff’s counsel.

8. All Defendants, with the exception of the unnamed and unknown Oberlin College Doe Defendants 1–10, have consented to this removal. 28 U.S.C. § 1446(b)(2)(A).

9. No admission of fact, law, liability, or damages is made or intended by this Notice of Removal, and all defenses, objections, and motions are hereby reserved.

II. This Court has Original or Supplemental Jurisdiction Over All of Plaintiff’s Claims so that the Entire State Court Action May Be Removed.

10. This Court has original jurisdiction over Plaintiff’s claims for violations of Title IX, 20 U.S.C. § 1681, and the due process clause of the Fourteenth Amendment of the U.S.

Constitution, as alleged under 42 U.S.C. § 1983. 28 U.S.C. § 1331; Compl. ¶¶ 260-307 (first, second, and third causes of action).

11. As a result, Plaintiff's Title IX and Fourteenth Amendment claims are removable under 28 U.S.C. § 1441(a).

12. This Court has supplemental jurisdiction over Plaintiff's purported claims under Ohio law for breach of contract, breach of the covenant of good faith and fair dealing, negligence, and promissory estoppel because they form part of the "same case or controversy" as the claims that arise under federal law. 28 U.S.C. § 1367(a) (district courts "*shall have supplemental jurisdiction* over all other claims that are so related to claims" over which the courts have original jurisdiction that they form part of the same case or controversy) (emphasis added); Compl. ¶¶ 308-340 (fourth, fifth, sixth, and seventh causes of action).

13. All of Plaintiff's claims relate to a common nucleus of operative facts, which Plaintiff describes as Oberlin's allegedly "unconstitutional and/or unconstitutionally gender-based discriminatory policies and procedures" in the College's Sexual Misconduct Policy (the "Policy"), including how the Policy has been applied in response to allegations of sexual misconduct and/or sexual harassment made against him by a female Oberlin student. *E.g.*, Compl., ¶ 1; Injunction Motion, at 4.

14. Accordingly, the entire State Court Action may be removed to this Court because it has supplemental jurisdiction over the state law claims. 28 U.S.C. § 1441(c)(1)-(2); *Hucul Advertising, LLC v. Charter Tp. of Gaines*, 748 F.3d 273, 280-81 (6th Cir. 2014).

15. Upon removal, this Court will have original jurisdiction over Plaintiff's state law claims given that Plaintiff and Defendants are citizens of different states and there is more than \$75,000 in controversy. 28 U.S.C. § 1332(a).

III. Conclusion.

WHEREFORE, Defendants remove this action from the Court of Common Pleas of Lorain County, Ohio.

/s/ David H. Wallace

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Rebecca Mosely*

CERTIFICATE OF SERVICE

A copy of the foregoing Notice of Removal has been served on the 30th day of March 2020, via electronic mail and Federal Express under Civ.R. 5(b)(2)(C), upon the following:

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