

UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO: _____

JENNIFER M. JANIVER,

Plaintiff,

vs.

SEMINOLE HARD ROCK HOTEL CASINO,

Defendant.

_____ /

DEFENDANT'S NOTICE OF REMOVAL

Defendant, SEMINOLE HARD ROCK HOTEL CASINO¹ (“Seminole Tribe of Florida”), pursuant to 28 U.S.C. §§ 1331, 1441, 1446, hereby files this Notice of Removal of the above-captioned matter from the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida. As grounds therefore, Defendant states as follows:

I. INTRODUCTION

1. *Pro se* Plaintiff initiated an action that is pending in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida, styled *Jennifer M. Janiver vs. Seminole Hard Rock Hotel Casino*, and designated as Case No.: CACE-19-12074. Plaintiff filed this action on or about June 11, 2019. *See* “**Exhibit A**”.

2. A copy of the Summons and Complaint in this action was served onto the Seminole Tribe of Florida on August 5, 2019.

3. Seminole Tribe of Florida timely removes this action within thirty (30) days of the date it was served with process. *See* 28 U.S.C. § 1446(b). Accordingly, Defendant must file its response to Plaintiff’s Complaint by September 11, 2019.

¹ The proper name for Defendant in this action is “Seminole Tribe of Florida d/b/a Seminole Gaming”.

4. Simultaneously, the Seminole Tribe of Florida also files its Notice of Removal in a related case, which was also initiated on or about June 11, 2019, in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida, styled *Jennifer M. Janiver vs. Seminole Hard Rock*, and designated as Case No.: CACE-19-12077. The docket number is currently pending.

II. ALLEGATIONS DERIVED FROM THE COMPLAINT

5. In the present case, Plaintiff seeks redress under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq. (“Title VII”) for alleged discrimination based on race and national origin.

6. As a result of the aforementioned incident, Plaintiff contends she is entitled to relief and seeks damages from the Seminole Tribe of Florida pursuant to Title VII². Compl., ¶ 5.

7. Since Plaintiff brings her action against the Seminole Tribe of Florida for alleged violations of Title VII, the present case is one “arising under the Constitution, laws, or treaties of the United States.” In fact, the federal statutory questions predominate Plaintiff’s Complaint. Therefore, the United States District Court for the Southern District of Florida, Fort Lauderdale Division, has original Federal Question jurisdiction pursuant to 28 U.S.C. §1331.

III. FEDERAL QUESTION JURISDICTION

8. Under 28 U.S.C. § 1441(a), “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant . . . to the district court of the United States for the district and division embracing the place where such action is pending.” District Courts have original jurisdiction over “all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331.

² Based on the face of the Complaint, it is unclear whether Plaintiff brings her cause of action under “Title VI” or “Title VII,” as she mentioned both statutes in the Complaint.

9. In considering whether it possesses “federal question” jurisdiction over a removed case, a district court is guided by the “well-pleaded complaint rule,” which provides that the plaintiff’s properly pleaded complaint governs the jurisdictional determination. *See Blab T.V. of Mobile, Inc. v. Comcast Cable Communications, Inc.*, 182 F.3d 851, 854 (11th Cir. 1999), citing *Louisville & Nashville R.R. v. Mottley*, 211 U.S. 149, 152, 29 S.Ct. 42, 43 (1908).

10. In the present case, Plaintiff seeks to recover damages under Title VII for alleged discrimination based on race and national origin. Because this Court has original jurisdiction over the federal discrimination claims, which appears on the face of the Complaint, this action is proper for removal to the federal court pursuant to 28 U.S.C. § 1441(a). *Everglades Ecolodge at Big Cypress, LLC v. Seminole Tribe of Florida*, 836 F. Supp. 2d 1296, 1301 (S.D. Fla. 2011). “Any civil case filed in state court may be removed to federal court by the defendant if the case could have been brought originally in federal court.” *Deel v. Metromedia Restaurant Services, Inc.*, 2006 WL 481667, *2 (N.D. Fla. 2006). Because Plaintiff’s Complaint raises a federal question, removal is proper.

IV. VENUE

11. The Fort Lauderdale Division of the United States District Court for the Southern District of Florida is the judicial district embracing the place where the state court case was brought and is pending and is, thus, the proper district court to which this case should be removed. *See* 28 U.S.C. §§ 89(c), 1441(a) & 1446(a).

12. Moreover, the Fort Lauderdale Division is the proper division within the Southern District of Florida to which the case should be removed since the subject incident alleged in Plaintiff’s Complaint occurred in Broward County, Florida. *See* 28 U.S.C. §§ 1441 & 1446; Complaint attached as “**Exhibit A**”.

13. As the present action is one over which the United States District Court for the Southern District of Florida would have original jurisdiction, the present action may be removed from its pending jurisdiction, the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida, to the United States District Court for the Southern District of Florida, Fort Lauderdale Division, pursuant to 28 U.S.C. §1441 and 28 U.S.C. § 1367(a). See “**Exhibit A**”.

V. STATE COURT PLEADINGS

14. Pursuant to 28 U.S.C. § 1446(a), Defendant, in conjunction with the filing of this Notice of Removal is simultaneously filing copies of all process, pleadings, and orders existing on file in the State court in this removed action, including the Complaint. See “**Exhibit B.**”

15. Additionally, simultaneous with filing this Notice of Removal, Seminole Tribe of Florida shall give written notice to all adverse parties and shall file a copy of this Notice of Removal with the Clerk of the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida, as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendant, SEMINOLE HARD ROCK HOTEL CASINO, prays that removal of this action to the United States District Court for the Southern District of Florida be hereby effected and that this Court take jurisdiction of this action.

Dated: September 4th, 2019

Respectfully submitted,

/s/ Mark D. Schellhase

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above was filed with the Clerk of the Court using CM/ECF. I further certify that I mailed the foregoing documents and the Notice of Electronic Filing by e-mail, U.S. Mail, and Certified Mail on Plaintiff (*Pro Se*), Jennifer M. Janiver, P.O. Box 292042, Fort Lauderdale, FL 33329 (gler.79v6@gmail.com) this 4th September, 2019.

Respectfully submitted,

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