

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
KANSAS CITY DIVISION**

WILLIAM M. WINDSOR,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:13-CV-00778
)	
ALLIE LORAIN YAGER)	
OVERSTREET,)	
And)	
JOHN DOES 1-1000,)	
)	
Defendants,)	
)	

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant Allie Loraine Yager Overstreet (hereinafter referred to as Defendant Overstreet), by and through her attorney, Matthew J. O'Connor, hereby files this Notice of Removal and states in support as follows:

1. Defendant Overstreet is an original defendant in a civil action filed in the Circuit Court of the 15th Judicial Circuit in and for Lafayette County, Missouri, Case No. 13LF-CV00461.
2. This Notice of Removal is filed in the United States District Court for the Western District of Missouri, Kansas City Division, within the time allowed by law for removal of civil actions.
3. The United States District Court for the Western District of Missouri, Kansas City Division, is the district and division embracing the place where the state court action is pending.

4. A copy of this Notice of Removal is being contemporaneously filed with the Clerk of the Circuit Court of the Fifteenth Judicial Circuit in and for Lafayette County, Missouri as required by 28 U.S.C. §§1446(d)

5. The pleadings attached hereto as Composite Exhibit A constitute all of the process and pleadings received by Defendant in this action as required by 28 U.S.C. §§1446(a). These pleadings include: (1) Plaintiff's First Amended Verified Complaint with Request for a Jury Trial and two Affidavits-Filed: 8/1/13, (2) Plaintiff's Initial Verified Complaint with Summons-Filed: 4/29/13, (3) Former Defendant Mark Supanich's Answer-Filed: 6/12/13, (4) Defendant Overstreet's Answer to Plaintiff's Initial Verified Complaint-Filed: 5/29/13 (5) Defendant Overstreet's Motion to Dismiss with Prejudice-Filed: 7/15/13 (6) Plaintiff's Responses to Defendant Overstreet's Motion to Dismiss with Prejudice-Filed: 7/31/13, (7) Defendant Overstreet's Motion for Protective Order and Gag Order-Filed: 7/12/13, (8) Plaintiff's Responses to Defendant Overstreet's Motion for Protective Order and Gag Order-Filed: 7/31/13 and (9) Plaintiff's Motion for Sanctions, to Compel, and for Civil Contempt-Filed: 7/25/13.

6. As set forth below, this Court has diversity jurisdiction under 28 U.S.C. §1332(a)(1) because the parties are citizens of different states and the amount in controversy exceeds the sum or value of \$75,000.00. Therefore, this action is removable pursuant to 28 U.S.C. § 1441(a).

NATURE OF THE ACTION

A. Factual Background

7. Plaintiff William M. Windsor an individual and resident of Box Elder, South Dakota. Plaintiff alleges that he has been "producing and directing a documentary

film, Lawless America, and has been compiling testimony about governmental and judicial corruption that has been presented to Congress and will be presented to state legislators.” *Plaintiff’s First Amended Verified Complaint* ¶7.

8. Plaintiff alleges that he has “become the victim of stalking, harassment, defamation, libel, slander, invasion of privacy, bogus criminal charges against him, and threats (including death threats).” *Plaintiff’s First Amended Verified Complaint* ¶11.

9. Plaintiff further alleges that he is the victim of defamation and the making of false accusations and false statements that include that Plaintiff is a pedophile, a pedophile lover, anti-gay, bigoted, tax evader, a criminal operating a scam, a terrorist and much more. *Plaintiff’s First Amended Verified Complaint* ¶12.

10. Plaintiff alleges that Defendant Overstreet and “The Stalkers” have repeatedly violated the Plaintiff’s privacy rights, violated copyrights of photos and videos of him and his family that they have no legal right to use, that doctored photos of the Plaintiff have been created, and sickening videos created about the Plaintiff. *Plaintiff’s First Amended Verified Complaint* ¶17.

11. Plaintiff alleges that stalkers have created blogs about the Plaintiff containing defamatory content, including some that utilize the Plaintiff’s name and names associated with the Plaintiff. *Plaintiff’s First Amended Verified Complaint* ¶18.

12. Defendant Overstreet is an individual and resident of Higginsville, Missouri. Plaintiff alleges that Defendant Overstreet was an unpaid volunteer working with Plaintiff for Lawless America...The Movie for several months, and prior to this was an unpaid volunteer as the Lawless America Missouri State Coordinator. *Plaintiff’s First Amended Verified Complaint* ¶19.

13. Plaintiff alleges that Defendant Overstreet released confidential information, provided to her by Plaintiff, to others. *Plaintiff's First Amended Verified Complaint* ¶20.

14. Plaintiff alleges that Defendant Overstreet became obsessed with <http://Joeyisalittlekid.blogspot.com>, a site directed at the Plaintiff, that the Plaintiff considers to be a hate site. *Plaintiff's First Amended Verified Complaint* ¶21. Plaintiff alleges that Defendant Overstreet kept sending Plaintiff emails and Facebook messages about the above referenced site and that Defendant Overstreet would regularly send Plaintiff postings by "haters," Defendant Overstreet wanted the Plaintiff to stop mentioning them. *Plaintiff's First Amended Verified Complaint* ¶21.

15. Plaintiff alleges that Defendant Overstreet stopped working with the Plaintiff on February 19, 2013. *Plaintiff's First Amended Verified Complaint* ¶22.

16. Plaintiff alleges that following her leave from Lawless America, Defendant Overstreet began to engage in the posting of untrue, slanderous, hurtful and defamatory messages on Plaintiff's Facebook. *Plaintiff's First Amended Verified Complaint* ¶23-33.

17. Plaintiff alleges that on March 14, 2013, Defendant made false statements and committed perjury when she applied for an Ex Parte Temporary Protective Order against Plaintiff. *Plaintiff's First Amended Verified Complaint* ¶36. Plaintiff alleges that Defendant Overstreet falsely accused Plaintiff of using a gun against her and others, and that Plaintiff was planning on becoming a mass murderer and/ or serial killer. *Plaintiff's First Amended Verified Complaint* ¶36. Defendant Overstreet filed a police report with the Higginsville Police Department on March 15, 2013 Plaintiff alleges that the

information in this report is false and distressing. *Plaintiff's First Amended Verified Complaint* ¶37. Plaintiff also alleges that the Protective Order is the cause of his divorce from his wife. *Plaintiff's First Amended Verified Complaint* ¶36.

18. Plaintiff also alleges that Stalkers stole his identity and the identity of his Mother and Father and used them to impersonate him and his mother, Plaintiff alleges that this was distressing and defamatory. *Plaintiff's First Amended Verified Complaint* ¶ 35,38-39.

19. Plaintiff also alleges that Defendant Overstreet has continued cyberstalking, harassing, defaming, libeling, and slandering Plaintiff, even after the state civil action was filed. *Plaintiff's First Amended Verified Complaint* ¶40.

20. Plaintiff also alleges that his wife divorced him because she became fearful that people like Defendant Overstreet would harm her. *Plaintiff's First Amended Verified Complaint* ¶41.

21. Plaintiff also alleges that there are many others involved in the lies, libelous, slanderous, defamatory statements published online about the Plaintiff. *Plaintiff's First Amended Verified Complaint* ¶43.

B. Procedural Background

22. On April 29, 2013, Plaintiff filed his initial complaint with the Lafayette County Circuit Court. Plaintiff asserts five (5) claims in the Petition: Count I: Defamation, Count II: Infliction of Emotional Distress, Count III: Tortious Interference with Contract or Business Relations, Count IV: Invasion of Privacy and Count V: Conspiracy to Commit Defamation.

23. On April 30, 2013, a summons was issued for Defendant Overstreet.

24. On May 2, 2013, Defendant Overstreet was served with Plaintiff's Petition.
25. On May 13, 2013, Plaintiff propounded discovery on Defendant Overstreet.
26. On May 29, 2013, Defendant Overstreet filed her Answer to Plaintiff's Complaint.
26. On June 3, 2013, Defendant Overstreet filed a Motion to Dismiss and a Motion to Strike.
27. On June 5, 2013, Defendant Overstreet offered her responses to Plaintiff's initial discovery.
28. On June 24, 2013, Plaintiff filed a Motion for Extension of Time to Respond to Filings by Defendant.
29. On June 28, 2013, Plaintiff filed a Motion to Strike Defendant Overstreet's Pleadings and Filings, an Affidavit, a Notice of Hearing, and Responses to Defendant Overstreet's Motions to Strike and Dismiss.
30. On July 2, 2013, Plaintiff filed a Notice of Amended Pleadings.
31. On July 8, 2013, Defendant Overstreet filed a Notice of Hearing and offered her Response to Defendant's Motion to Strike. Contemporaneously, Plaintiff filed an Amended Notice of Hearing, propounded a Second Request for Production of Documents onto Defendant Overstreet, filed his response to Defendant Overstreet's Notice of Hearing, and Motion the Court to Compel Discovery and Sanction Defendant Overstreet.

32. On July 9, 2013, Plaintiff filed an Amended Response to Defendant Overstreet's Motion to Dismiss and filed an Amended Notice of Hearing.

33. On July 10, 2013, Plaintiff filed a Notice of Deposition for Defendant Overstreet, Propounded additional discovery on to Defendant Overstreet, filed another Amended Notice of Hearing, and filed a Motion for Leave to Amend Verified Complaint.

34. On July 12, 2013, Defendant Overstreet filed a Motion for Protective Order and a Request for Gag Order and filed a Notice to hear Defendant's Motion for the Protective and Gag Orders.

35. On July 15, 2013, Defendant Overstreet filed a Motion to Dismiss. Contemporaneously, Plaintiff filed a Motion to Leave to Amend his Complaint, four affidavits, a fifth Amended Notice of Hearing, Motions to Sanction, to Compel, to strike and for a Mental Exam of Defendant Overstreet. Plaintiff also propounded on Defendant Overstreet a third Request for Production of Documents. Finally, Plaintiff filed a Notice of Withdrawal of his Notice to Amend Pleadings as filed on 7-2-13.

36. On July 16, 2013, Plaintiff filed the Notice of the Deposition Transcript of Defendant Overstreet. Additionally, a hearing was held on this date. During the hearing Plaintiff's Motions to Compel were granted, Plaintiff's Motions to Sanction and to Strike were denied and Defendant Overstreet's Motions to Dismiss and to Strike were denied.

37. On July 25, 2013, Plaintiff filed a Notice of Hearing for the following motions: to Sanction, to Compel, and for Civil Contempt. Plaintiff also filed a Motion for Leave to Amend his Verified Complaint.

38. On July 29, 2013, Defendant filed a Motion for Continuance for the hearing scheduled on August 1, 2013.

39. On July 31, 2013, Plaintiff filed his responses to Defendant Overstreet's Motions to Dismiss and Motion for Protective Order and Gag Order.

40. On August 1, 2013, in a hearing with the Court, Plaintiff's July 25, Motion to Amend his Verified Complaint was granted. Following the hearing, Plaintiff filed his Amended Petition, which included a request for a jury trial and a prayer for judgment in excess of \$10,000,000. Plaintiff's Amended Complaint alleges six counts: Count I: Defamation, Count II: Infliction of Emotional Distress, Count III: Negligence, Count IV: Tortious Interference with a Contract or Business Relations, Count V: Invasion of Privacy, and Count VI: Conspiracy to Commit Defamation. Along with his Petition, Plaintiff filed multiple Affidavits. Plaintiff also requested and was issued multiple subpoenas. Finally, Defendant Overstreet provided Plaintiff with her Answers to Plaintiff's Interrogatories.

DIVERSITY JURISDICTION

A. Diversity of Citizenship

41. For purposes of diversity jurisdiction, a natural person is a citizen of the state in which he or she is domiciled at the time the complaint was filed. *Newman-Green Inc. v. Alfonso-Larrain*, 490 U.S. 826, 830, 109 S. Ct. 2218, 104 L. Ed. 2d 893 (1989).

42. Plaintiff's complaint alleges complete diversity of citizenship between the parties. More specifically, in Plaintiff's initial Petition he stated that he resided and therefore domiciled and was a citizen of the State of Georgia, in Plaintiff's Amended Complaint filed on August 1, 2013, Plaintiff states that he lives in South Dakota. *See*

Plaintiff's Initial Petition ¶6 and Amended Complaint ¶6. In Plaintiff's Amended Complaint he makes no statement as to where he resides, however for the purposes of establishing Diversity Jurisdiction, Defendant must only prove that Plaintiff is not a resident from the same state that she is domiciled in. Defendant Overstreet is and has been domiciled and therefore a citizen of the State of Missouri.

43. There is no dispute that Plaintiff and Defendant are domiciled in different states. Thus, there is no doubt that complete diversity of citizenship exists between the parties.

B. Amount in Controversy

44. For removal based upon diversity jurisdiction, Defendant must show by a preponderance of the evidence that the amount in controversy exceeds the sum or value of \$75,000.00. *Williams v. Best Buy Company, Inc.*, 269 F.2d 1316, 1319 (11th Cir. 2001). To do so, Defendant must show only that it does not appear to a legal certainty that the claim is for less than the jurisdictional amount. *St. Paul Indemnity Co. v. Cab Co.*, 303 U.S. 283, 288 (1937). 14A Wright, Miller & Cooper, *Federal Practice & Procedure*, §3702 at 19. As has been stated in this Circuit, "a fundamental principle of removal jurisdiction is that whether subject matter jurisdiction exists is a question answered by looking to the complaint as it existed at the time the petition for removal was filed." *McCorkindale v. American Home Assurance Company/ A.I.C.*, 909 F. Supp. 646, 650, (N.D. Iowa 1995).

45. In this case, it is clear from the Complaint that the object of the litigation includes both monetary damages and injunctive relief. *See Exhibit A, Complaint.* As

discussed herein, the value of the damages and the injunctive relief sought by the Plaintiff in this action clearly place the amount in controversy in excess of \$75,000.00.

46. Pursuant to 28 U.S.C. § 1446(b)(3): “a notice of removal may be filed within thirty days after receipt by the Defendant, through service or otherwise, of a copy of an amended pleading, motion, order, or other paper from which it may first be ascertained that the case is one which is or has become removable.”

WHEREFORE, Defendant Overstreet hereby removes this civil action to the United States District Court for the Western District of Missouri, Kansas City Division.

Respectfully Submitted,

THE O’CONNOR LAW FIRM, P.C.

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