

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ORLEANS DIVISION
COMPLAINT APPLICATION 2226ac1067

NICHOLAS FIORILLO,)
)
)
Complainant,)
)
v.)
)
SAMUEL SPITALNY, PETER SPITALNY,)
RAYMOND GREEN, JOAN GREEN,)
KEVIN PETERS, MICHAEL BRIER)
)
Respondents.)

NOTICE OF REMOVAL

PLEASE TAKE NOTICE THAT on December 12, 2022, the plaintiff in the above-captioned action, removed this action to the United States District Court for the District of Massachusetts, by filing a Notice of Removal in that Court. A copy of the Notice of Removal is attached as Exhibit 1. Accordingly, and pursuant to Title 42, United States Code § 1983, this Court may proceed no further, until such time that the matter is fully adjudicated in the Federal courts.

Dated: December 15, 2022

NICHOLAS FIORILLO
/s/ Nicholas Fiorillo
3 Kales Way
Harwich Port, MA 02646-1936
Tel: (508)-776-7219
metrowestrealty@yahoo.com

EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CASE NO. _____

)
NICHOLAS FIORILLO,)
)
Complainant,)
)
v.) **ORLEANS DIVISION**
) **COMPLAINT 2226ac1067**
SAMUEL SPITALNY, PETER SPITALNY,)
RAYMOND GREEN, JOAN GREEN,)
KEVIN PETERS, MICHAEL BRIER)
)
Respondents.)
_____)

NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. §1443

TO THE CLERK OF THE ABOVE ENTITLED COURT:

PLEASE TAKE NOTICE THAT pursuant to 28 U.S.C. §1443 and 28 U.S.C. §1446, Plaintiff Nicholas Fiorillo (“Plaintiff” or “Fiorillo”) hereby removed the above-captioned criminal action, and all claims and causes of action therein, from the Barnstable County Court, Orleans Division, to the United States District Court for the District of Massachusetts. The Defendant further states the as follows:

Jurisdiction and Authority For Removal

1. The District of Massachusetts, encompasses Barnstable County.
2. The Court has jurisdiction over this matter under U.S. Const. Ann. Article III, Section 2, Clause 1, a special civil rights removal statute which permits removal of any civil or criminal action by a party who is denied or cannot enforce in the state court a right under any law, providing for equal civil rights of a person for any act under color of authority derived from any law providing for equal rights.

3. Under 28 U.S. Code § 1443, actions commenced in a State court by any person who is denied or cannot enforce his civil rights in the courts of such State, a right under any law providing for the equal civil rights of citizens of the United States, to appeal to the district court of the United States for the district and division embracing the place wherein it is pending. This is not a civil matter, but a criminal one, and should not have been determined as a civil matter by a Clerk Magistrate, who issued an erroneous ruling she was not authorized to issue, as she had recused herself on the record at the preliminary hearing held on this matter.

4. Defendant Nicholas Fiorillo may thus remove this action to this Court, under Under 28 U.S. Code § 1443, 28 U.S. Code § 1446, and U.S. Const. Ann. Article III, Section 2, Clause 1.

Dated: December 15, 2022

NICHOLAS FIORILLO
/s/ Nicholas Fiorillo
3 Kales Way
Harwich Port, MA 02646-1936
Tel: (508)-776-7219
metrowestrealty@yahoo.com

CERTIFICATE OF SERVICE

The undersigned states that he served a copy of this Notice of Removal on counsel for Defendants by email, and filed a copy of this Notice of Removal with the Clerk of the Orleans District Court for the County of Barnstable, pursuant to 28 U.S.C. § 1446(d) et seq.

/s/Nicholas Fiorillo