

**IN THE CIRCUIT COURT FOR THE SECOND JUDICIAL CIRCUIT
HARDIN COUNTY, ILLINOIS**

ROBERT WINCHESTER,

Plaintiff,

Case No. 2018-CH-000004

v.

ILLINOIS REPUBLICAN PARTY, an Illinois
not for profit corporation, SHAUN MURPHY,
JUDY DIELKELMAN, JAY REYES, JACK
DORGAN, BOB GROGAN, MARK HOSTY,
RYAN HIGGINS, CHAR FOSS-
EGGEMANN, ROGER CLAAR, BARBARA
VIVIANO, FRED FLORETH, STANTON
BOND, JOHN McGLASSON, JAN WEBER,
MICHAEL BIGGER, ILLINOIS STATE
BOARD OF ELECTIONS, WILLIAM J.
CADIGAN, JOHN R. KEITH, WILIAM M.
McGUFFAGE, KATHERINE S. O'BRIEN,
ANDREW K. CARRUTHERS,
CASSANDRA B. WATSON, CHARLES W.
SCHOLZ, IAN K. LINNABARY and
CHAPIN ROSE,

Defendants.

**DEFENDANT ILLINOIS REPUBLICAN PARTY'S
NOTICE OF FILING OF REMOVAL**

PLEASE TAKE NOTICE that, on May 18, 2018, Defendant Illinois Republican Party filed in the United States District Court for the Southern District of Illinois a Notice of Removal of this action. Copies of all pleadings, process, orders, and other filings in this Court have been attached to the Notice of Removal. The Notice of Removal is attached hereto as Exhibit A. Counsel for Plaintiff received notice of the Notice of Removal pursuant to 28 U.S.C. § 1446. A copy of the Notice of Removal to All Adverse Parties is attached hereto as Exhibit B.

Exhibit A

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
BENTON DIVISION**

ROBERT WINCHESTER,

Plaintiff,

v.

ILLINOIS REPUBLICAN PARTY, an Illinois
not for profit corporation, SHAUN MURPHY,
JUDY DIELKELMAN, JAY REYES, JACK
DORGAN, BOB GROGAN, MARK HOSTY,
RYAN HIGGINS, CHAR FOSS-
EGGEMANN, ROGER CLAAAR, BARBARA
VIVIANO, FRED FLORETH, STANTON
BOND, JOHN McGLASSON, JAN WEBER,
MICHAEL BIGGER, ILLINOIS STATE
BOARD OF ELECTIONS, WILLIAM J.
CADIGAN, JOHN R. KEITH, WILIAM M.
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ANDREW K. CARRUTHERS,
CASSANDRA B. WATSON, CHARLES W.
SCHOLZ, IAN K. LINNABARY and
CHAPIN ROSE,

Defendants.

Case No. _____

From the Circuit Court for the 2nd Judicial
Circuit, Hardin County, Illinois, Case No.
2018-CH-000004

(FEDERAL QUESTION JURISDICTION)

NOTICE OF REMOVAL

Defendant Illinois Republican Party ("IRP") hereby removes the above-captioned matter from the Circuit Court for the Second Judicial Circuit of Hardin County, Illinois to the United States District Court for the Southern District of Illinois on the grounds that federal jurisdiction exists pursuant to 28 U.S.C. §§ 1331, 1441, and 1446. Pursuant to 28 U.S.C. § 1446(a), IRP has attached hereto copies of all process, pleadings, and orders filed with the Clerk of the Circuit Court, Hardin County, Illinois as Exhibit ("Ex.") A. The grounds for removal are as follows:

INTRODUCTION

1. The IRP is an Illinois not-for-profit corporation which operates as an Illinois statewide political party. IRP's governing and oversight body is the State Central Committee of the Republican Party, as authorized by 10 ILCS 5/7-8(a) (2018). The State Central Committee is composed of one member from each of the State of Illinois' 18 federal Congressional Districts. State Central Committeemen are elected from each Congressional District in quadrennial election cycles to serve four-year terms. One of the State Central Committee's functions is to elect the State Chairman of the IRP to also serve a four-year term.

2. The Republican Party Primary Election took place in March 2018. Pursuant to section 7-8(a), IRP administered statewide elections of State Central Committeeman on April 18, 2018. The State Central Committee is scheduled to convene on May 19, 2018—tomorrow—in Springfield, Illinois in order to elect a State Chairman of the IRP.

3. Plaintiff was the incumbent Republican State Central Committeeman for the State's 15th Congressional District. In the State Central Committeeman elections held on April 18, 2018, Plaintiff lost his bid for reelection to Defendant Chapin Rose and the IRP declared Defendant Rose to be the winner. However, Plaintiff contends that he should be declared the winner due to purported irregularities in the vote-counting and procedures administered by IRP.

PROCEDURAL BACKGROUND

4. On May 14, 2018, Plaintiff filed the instant Complaint in the above-captioned matter. *See* Ex. A. A summons has not been issued nor has IRP been served. Plaintiff asserts four causes of action, three of which are directed at IRP.

5. Count I of the Complaint alleges the IRP violated 42 U.S.C. § 1983 and that IRP “violated WINCHESTER’s rights to procedural due process of law guaranteed by the Fourteenth Amendment of the United States Constitution[.]” Ex. A. ¶ 48. Count I alleges that IRP is a “state

actor” by exercising authority delegated to IRP from the Illinois State Board of Elections to administer Republican State Central Committeeman elections, and that IRP violated Plaintiff’s Fourteenth Amendment rights by unlawfully declaring Defendant Rose the winner of the 15th District’s State Central Committeeman election. *Id.* at ¶¶ 46–52.

6. Counts II, III, and IV of the Complaint seek injunctive and declaratory relief under Illinois law against IRP and other Defendants in order to preclude Defendant Rose from being seated with the State Central Committee at the May 19, 2018 IRP Convention and, in addition, to have himself declared winner of the 15th District’s State Central Committeeman election. *Id.* at ¶¶ 53–64.

7. IRP has filed this Notice within 30 days after receiving notice of Plaintiff’s Complaint in accordance with section 1446(b) of the removal statute, 28 U.S.C. § 1446(b) (“The notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based”).

8. Pursuant to 28 U.S.C. § 1446(d), IRP will promptly serve this Notice on Plaintiff and will promptly file a copy of this Notice with the Clerk of the Circuit Court in Hardin County.

STATEMENT OF JURISDICTION

9. This Court has original jurisdiction to hear Plaintiff’s complaint under 28 U.S.C. § 1331, and this action is one that may be removed to this Court by IRP pursuant to 28 U.S.C. §§ 1441 and 1446, for the reasons stated below. Any purported State law claims in Plaintiff’s Complaint are subject to this Court’s supplemental jurisdiction under 28 U.S.C. § 1367.

GROUND FOR REMOVAL

10. The face of Plaintiff’s Complaint raises a substantial federal question arising under 42 U.S.C. § 1983, and Plaintiff’s additional claims in the action are within the Court’s

original federal jurisdiction because they form part of the same case or controversy under Article III of the United States Constitution.

11. **Original Jurisdiction.** Under section 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.” 28 U.S.C. § 1441(a). One category of cases of which district courts have original jurisdiction is “[f]ederal question” cases, *i.e.*, cases “arising under the Constitution, laws, or treaties of the United States.” *Id.* § 1331.

12. Here, the face of Count I of Plaintiff’s complaint raises a substantial federal question arising under 42 U.S.C. § 1983. Plaintiff specifically asserts that IRP supposedly “violated WINCHESTER’s rights to procedural due process of law guaranteed by the Fourteenth Amendment of the United States Constitution[.]” Ex. A. ¶ 48.

13. **Supplemental Jurisdiction of Related State Claims.** This Court has supplemental jurisdiction to hear Plaintiff’s claims based on Illinois law because those “claims ... are so related to claims in the action within such original jurisdiction” of the Court “that they form part of the same case or controversy under Article III of the United States Constitution.” 28 U.S.C. § 1367(a). Specifically, Counts II through IV of the Complaint are all so related to Count I as to form part of the same case or controversy such that those claims fall within this Court’s supplemental federal jurisdiction pursuant to 28 U.S.C. § 1367.

14. **The Procedural Requirements Are Satisfied.** In accordance with 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings, and orders served on or sent to IRP are attached hereto as Exhibit A. Pursuant to 28 U.S.C. § 1446(d), a Notice of Filing of Notice of Removal is being filed with the Circuit Court for the Second Judicial Circuit of Hardin County,

Illinois, a copy of which is attached hereto as Exhibit B. And pursuant to 28 U.S.C. §§ 1446(a), (d), a copy of the Notice of Removal to All Adverse Parties will be served promptly on Plaintiffs' counsel, a copy of which is attached hereto as Exhibit C.

15. The conditions for removal under 28 U.S.C. §§ 1331, 1441, and 1446 have been met. Because Plaintiff's claims fall within this Court's federal question jurisdiction, removal is proper under 28 U.S.C. § 1441(a). Thus, IRP may and hereby does remove the entire action under 28 U.S.C. § 1441(c). If any questions arise as to the propriety of the removal of this action, or in the event Plaintiff files a request to remand, IRP requests the opportunity to present a brief, oral argument, and any further evidence necessary in support of its position that this case is removable.

16. By removing this matter, IRP does not waive and, to the contrary, reserves any rights it may have, including, without limitation, all available arguments and affirmative defenses.

CONCLUSION

WHEREFORE, Defendant IRP hereby removes the above-referenced action now pending in the Circuit Court for the Second Judicial Circuit of Hardin County, Illinois to the United States District Court for the Southern District of Illinois

Dated: May 18, 2018

Respectfully submitted,

Illinois Republican Party

By: /s/ Marcus A. Christian

John Fogarty, Jr. (*pro hac vice application forthcoming*)

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*Attorneys for Defendant
Illinois Republican Party*

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of May 2018, I electronically filed the foregoing with the Clerk of the Court for the Southern District of Illinois using the CM/ECF system, which will send notification of such filing to the attorneys of record. I further certify that a copy of the foregoing was served by e-mail and United States mail on May 18, 2018 on the following counsel of record:

Stephen F. Boulton
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Telephone: (773) 735-1700

/s/ Marcus A. Christian
Marcus A. Christian

Exhibit B

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
BENTON DIVISION**

ROBERT WINCHESTER,

Plaintiff,

v.

ILLINOIS REPUBLICAN PARTY, an Illinois not for profit corporation, SHAUN MURPHY, JUDY DIELKELMAN, JAY REYES, JACK DORGAN, BOB GROGAN, MARK HOSTY, RYAN HIGGINS, CHAR FOSS-EGGEMANN, ROGER CLAAAR, BARBARA VIVIANO, FRED FLORETH, STANTON BOND, JOHN McGLASSON, JAN WEBER, MICHAEL BIGGER, ILLINOIS STATE BOARD OF ELECTIONS, WILLIAM J. CADIGAN, JOHN R. KEITH, WILLIAM M. McGUFFAGE, KATHERINE S. O'BRIEN, ANDREW K. CARRUTHERS, CASSANDRA B. WATSON, CHARLES W. SCHOLZ, IAN K. LINNABARY and CHAPIN ROSE,

Defendants.

Case No. _____

From the Circuit Court for the 2nd Judicial Circuit, Hardin County, Illinois, Case No. 2018-CH-000004

(FEDERAL QUESTION JURISDICTION)

**DEFENDANT ILLINOIS REPUBLICAN PARTY'S NOTICE TO ALL PARTIES
OF FILING OF REMOVAL OF ACTION TO FEDERAL COURT**

PLEASE TAKE NOTICE that, on May 18, 2018, Defendant Illinois Republican Party filed in the United States District Court for the Southern District of Illinois a Notice of Removal of *Robert Winchester v. Illinois Republican Party, et. al*, No. 2018-CH-000004, from the Circuit Court for the 2nd Judicial Circuit, Hardin County, Illinois, a copy of which was served contemporaneously with this Notice. Copies of all pleadings, process, orders, and other filings in this Court have been attached to the Notice of Removal.

Dated: May 18, 2018

Respectfully submitted,

Illinois Republican Party

By: /s/ Marcus A. Christian

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*Attorneys for Defendant
Illinois Republican Party*

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of May 2018, I electronically filed the foregoing with the Clerk of the Court for the Southern District of Illinois using the CM/ECF system, which will send notification of such filing to the attorneys of record. I further certify that a copy of the foregoing was served by e-mail on May 18, 2018 on the following counsel of record:

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