

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

LAW OFFICES
UDALL, SHUMWAY & LYONS, P.L.C.
30 WEST FIRST STREET
MESA, ARIZONA 85201-6695
Telephone: (480)461-5300
Fax: (480)833-9392

David R. Schwartz - #009264
das@udallshumway.com
Attorneys for Defendant Phoenix School of Law

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Angela Patton,

Plaintiff,

v.

Phoenix School of Law,

Defendants.

NO.

**NOTICE OF REMOVAL FROM
STATE COURT TO FEDERAL
COURT**

**TO THE CLERK OF THE UNITED STATES DISTRICT COURT, DISTRICT OF
ARIZONA**

Notice is hereby given that Defendant Phoenix School of Law, LLC, a Delaware limited liability company, hereby removes the entire action described below to the United States District Court, District of Arizona, pursuant to 28 U.S.C. § 1446:

1. On or about January 31, 2011, Plaintiff Angela Patton, pro per, filed (A) a “Request for Temporary Restraining Order w/out Notice” (“Request”) and (B) a “Certificate of Compulsory Arbitration” (“Certificate”) in Maricopa County Superior Court, cause no. CV 2011-050840 (“State lawsuit”), against the Defendant. A true and accurate copy of the Request is attached hereto as Exhibit 1. A true and accurate copy of the Certificate is attached hereto as Exhibit 2. The request for a temporary restraining order was denied by the State Court in a minute entry. A true and accurate copy of the minute entry is attached hereto as Exhibit 3. Exhibits 1-3 were not served upon Defendant.

2. On or about February 23, 2011, Plaintiff filed (A) a “Complaint and Request for

1 Preliminary Injunction” (“Complaint”), (B) a “Plaintiff’s Notice of Motion for Preliminary
2 Injunction, Order to Show Cause; and Memorandum of Points and Authorities in Support”
3 (“Notice of Motion”), and (C) “Request - Affidavit for Order to Show Cause” (“Affidavit”) in the
4 State Lawsuit. A true and accurate copy of the Complaint is attached hereto as Exhibit 4. A true
5 and accurate copy of the Notice of Motion is attached hereto as Exhibit 5. A true and accurate
6 copy of the Affidavit is attached hereto as Exhibit 6.

7 3. On or about March 10, 2011, the State Court issued an Order to Show Cause. A true
8 and accurate copy of the Order to Show Cause is attached hereto as Exhibit 7.

9 4. The Request (Ex. 1, p. 2), Complaint (see Ex. 4, ¶ 18-19, 21), and Notice of Motion
10 (see Ex. 5, p. 3, 5) filed in the State lawsuit allege a claim under Title III of the Americans with
11 Disabilities Act (“ADA”), 42 U.S.C. § 12181 et seq. Such claim raises federal questions under
12 which this Court would have original jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343(a)(3), 42
13 U.S.C. § 2000a-3(a) and 42 U.S.C. § 12188(a) (which permits in ADA Title III cases the
14 powers, remedies, and procedures set forth in 42 U.S.C. § 2000a-3(a)) if it had been brought
15 initially in this Court.

16 5. The State Court action is removable to this Federal Court pursuant to 28 U.S.C. §
17 1441(a)-(b) because this Court would have original jurisdiction over the federal law claim under
18 the ADA.

19 6. All Defendants have joined in this removal. There is only one named Defendant.

20 7. This removal is timely filed pursuant to 28 U.S.C. § 1446(b) as it was filed within
21 thirty days after receipt by Defendant, through service or otherwise, of a copy of the initial
22 pleading setting forth the claim for relief.

23 8. Attached hereto as Exhibits 4 through 7 are all process, pleadings and orders served
24 upon Defendant in the State Court action. Such pleadings were served on April 1, 2011 by
25 acceptance of service as reflected in the pleadings, a true and accurate copy of which are attached
26 hereto as Exhibit 8.

27 ...

28 ...

1 9. Defendant shall be filing promptly a notice of removal with the State Court in
2 compliance with 28 U.S.C. § 1446(d).

3 DATED: April 15, 2011.

4 UDALL, SHUMWAY & LYONS, P.L.C.

5
6 /s/ David R. Schwartz
7 David R. Schwartz
8 30 West First Street
9 Mesa AZ 85201
10 das@udallshumway.com
11 Attorneys for Defendant Phoenix School of
12 Law

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on April 15, 2011, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

None (this is case initiating document)

I further certify I caused a copy of the attached document to be mailed first class mail, postage prepaid, to:

Angela Patton
15221 N. Clubgate Dr., #2123
Scottsdale, AZ 85254
Plaintiff Pro Per

/s/ David R. Schwartz
3624243.1 \
109042-00001