

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Jessica Baribeau; Jamie Jones; Kate Kibby, on  
her own behalf and as guardian for her minor  
brother Kyle Kibby; Raphi Rechitsky; Jake  
Sternberg; and Christian Utne,

06-4953 MJD/SRW

Plaintiffs,

v.

City of Minneapolis, Inspector Jane Harteau,  
Sgt. Tim Hoepfner, Sgt. E.T. Nelson, Sgt. John  
Billington, Sgt. D. Pommerenke, Sgt. Erica  
Christensen, Officer Tim Merkel, Officer  
Roderic Weber, Officer Sherry Appledorn,  
Officer Jeanine Brudenell, Officer Robert  
Greer, Officer Jane Roe (whose true name is  
unknown), Officer Jane Doe (whose true name  
is unknown),

NOTICE OF REMOVAL TO  
FEDERAL COURT

JURY TRIAL DEMANDED

and

County of Hennepin, Sean Kennedy, Becky  
Novotny, Sam Smith (whose true name is  
unknown), and Officer Mary Jones( whose true  
name is unknown),

Defendants.

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Defendants Inspector Jane Harteau, Sgt. Tim Hoepfner, Sgt. E.T. Nelson, Sgt. John  
Billington, Sgt. D. Pommerenke, Sgt. Erica Christensen, Officer Tim Merkel, Officer Roderic  
Weber, Officer Sherry Appledorn, Officer Jeanine Brudenell, Officer Robert Greer, Officer Jane  
Roe (whose true name is unknown), Officer Jane Doe (whose true name is unknown) and the  
City of Minneapolis, (the City Defendants) through their attorney James A. Moore, Assistant  
Minneapolis City Attorney, 300 Metropolitan Centre, 333 South Seventh Street, Minneapolis,  
MN 55402, hereby give notice to the Plaintiffs and to the State Court as follows:

**SCANNED**

DEC 19 2006

U.S. DISTRICT COURT MPLS

1. The City Defendants are Defendants in a civil action now pending in the District Court of the Fourth Judicial District of the State of Minnesota entitled Jessica Baribeau, et al. v. City of Minneapolis, et al., and a trial has not yet been had therein.

2. That on November 22, 2006, a copy of the Summons and Complaint in the above-entitled action was served upon the City of Minneapolis by leaving a copy with the Office of the City Clerk. Defendants Inspector Jane Harteau, Sgt. Tim Hoepfner, Sgt. E.T. Nelson, Sgt. John Billington, Sgt. D. Pommerenke, Sgt. Erica Christensen, Officer Tim Merkel, Officer Roderic Weber, Officer Sherry Appledorn, Officer Jeanine Brudenell, Officer Robert Greer, Officer Jane Roe (whose true name is unknown), Officer Jane Doe (whose true name is unknown) have been served with process by mail. Upon information and belief Defendants County of Hennepin, Sean Kennedy, Becky Novotny, Sam Smith and Mary Jones were served with process. A copy of the Summons and Complaint is annexed as Exhibit A. A copy of the Joint Answer of the City Defendants is annexed as Exhibit B. A copy of the joint Motion to Dismiss of Defendants Hennepin County, Sean Kennedy, Becky Novotny, Sam Smith and Officer Mary Jones is attached as Exhibit C.

3. This Notice of Removal is filed pursuant to Title 28, United States Code, Sections 1441(a) and (b), said action in the State Court commenced against Defendants being a civil action alleging that Defendants violated the civil rights of the Plaintiffs and committed various torts against Plaintiffs resulting in injury.

4. The Complaint alleges under 42 U.S.C. § 1983, inter alia, that Defendants engaged in actions proscribed by the First, Fourth, Fifth and Fourteenth Amendments to the United States Constitution. These are claims over which this Court has original jurisdiction pursuant to 28 U.S.C. §1343, as they arise under the laws of the United States within the

meaning of Title 28 United States Code Section 1331; this claim is therefore removable under Title 28, United States Code, Section 1441(a) and (b). All Defendants have agreed to removal.

5. The Complaint also asserts pendant common law claims under Minnesota law.

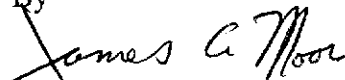
6. Defendants file herewith a copy of all process, pleadings and orders served upon them in this action, have sent written notice of the filing of this Notice of Removal to Plaintiff, will promptly file a copy of this Notice with the Clerk of the District Court for the Fourth Judicial District of the State of Minnesota, County of Hennepin, and attach their Federal Rules of Civil Procedure, Rule 11 affidavit.

WHEREFORE, notice is hereby given that the said action is removed from the State Court to this Court for trial or such other determination as this Court may make regarding the action and in accordance with its jurisdictional limits under Title 28, United States Code, Section 1441(a) and (b).

Dated: 12/19/06

JAY M. HEFFERN  
City Attorney

By



JAMES A. MOORE  
Assistant City Attorney  
Attorney Reg. No. 16883X  
Attorneys for Defendants  
333 South Seventh Street, Suite 300  
Minneapolis, MN 55402-2453  
(612) 673-2066

AFFIDAVIT OF JAMES A. MOORE

STATE OF MINNESOTA )  
 )SS  
COUNTY OF HENNEPIN )

James A. Moore, being first duly sworn, states and alleges as follows:

1. Affiant is an attorney with the Office of the City Attorney for the City of Minneapolis and represents Inspector Jane Harteau, Sgt. Tim Hoepfner, Sgt. E.T. Nelson, Sgt. John Billington, Sgt. D. Pommerenke, Sgt. Erica Christensen, Officer Tim Merkel, Officer Roderic Weber, Officer Sherry Appledorn, Officer Jeanine Brudenell, Officer Robert Greer, Officer Jane Roe (whose true name is unknown), Officer Jane Doe (whose true name is unknown) and the City of Minneapolis named herein; that he has read the foregoing Notice of Removal of Action to Federal Court and knows the contents thereof; that the same is true of his own knowledge, except as to any matters stated therein on information and belief, and as to those matters, he believes them to be true.

Subscribed and sworn to  
before me this 19<sup>th</sup> day  
of December, 2006.

*Helen H. Peters*

Notary Public  
My Commission expires:

*James A. Moore*  
James A. Moore  
Attorney Reg. No. 16883X

