

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JOHN DOE,

Plaintiff,

v.

No. _____

CITY OF ALBUQUERQUE,

Defendant.

NOTICE OF REMOVAL

Pursuant to 29 U.S.C. §§ 1441(b) and 1446(a), Defendant City of Albuquerque gives Notice of Removal to this Court of the civil action originally filed on October 9, 2008, in the Second Judicial District Court for the State of New Mexico, County of Bernalillo, Case No. CV 2008-10657, captioned John Doe v. City of Albuquerque, and as grounds therefore states:

1. A Complaint for Injunctive and Declaratory Relief, (hereinafter the complaint) was filed with the Second Judicial District Court on October 9, 2008. A copy of the Complaint is attached as Exhibit A.
2. The proceeding was served on Defendant City of Albuquerque on October 9, 2008.
3. The Complaint alleges that Defendant City violated his rights of free speech, substantive and procedural due process, and equal protection under the United States and New Mexico Constitutions, and seeks relief pursuant to federal law, 42 U.S.C. §§1983, 1988, and New Mexico statutes.

4. Pursuant to 28 U.S.C. §1446(d), copies of the Notice of Removal will be promptly given to all adverse parties and a copy of the Notice of Removal will be filed with the Clerk of the Second Judicial District Court, County of Bernalillo, State of New Mexico.

5. Claims stated against Defendant City of Albuquerque in this case are subject to the jurisdiction of this Court:

a. This Court has original jurisdiction because the Complaint is founded on a claim or right arising under the Constitution and the laws of the United States. *See* Complaint ¶¶ 4, 14-24.

b. An actual controversy exists because the Complaint alleges that Defendants deprived plaintiff of rights arising under the United States Constitution.

6. This Court has federal question jurisdiction. Plaintiffs' allegation of a violation of their constitutional rights is created, if at all, under federal law. A federal question appears on the face of the Complaint. There is an actual controversy between Plaintiff and Defendant City of Albuquerque.

7. Service was made on October 9, 2008 and this complaint is timely removed under 28 U.S.C. § 1443(b).

8. All Defendants consent to the removal of the case from the State Court to the Federal Court.

9. A copy of all process and pleadings that have been served upon City Defendant is attached to the Notice of Filing of State Court Record which is filed contemporaneously with this Notice of Removal.

Respectfully Submitted,

CITY OF ALBUQUERQUE
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City Attorney

/s/ Gregory S. Wheeler
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I hereby certify that an electronic copy of the foregoing was sent via e-mail to the following counsel of record on November 6, 2008:

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