

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

|                                  |   |                      |
|----------------------------------|---|----------------------|
| MARY JANE COLSTON,               | : | CASE NO. 1:12-cv-204 |
|                                  | : |                      |
|                                  | : | JUDGE                |
|                                  | : |                      |
| Plaintiff,                       | : |                      |
|                                  | : |                      |
| v.                               | : |                      |
|                                  | : |                      |
| CLEVELAND PUBLIC LIBRARY, et al. | : |                      |
|                                  | : |                      |
| Defendants.                      | : |                      |

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**DEFENDANTS’ NOTICE OF REMOVAL**

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Pursuant to 28 U.S.C. Sections 1331, 1441(b), and 1446, Defendants Cleveland Public Library (“CPL”), Felton Thomas (“Thomas”), Michael Janero (“Janero”) and Sharon Tufts (“Tufts”) (collectively, “Defendants”) hereby remove to this Court the action brought by Plaintiff Mary Jane Colston (“Plaintiff”) in the Cuyahoga County Court of Common Pleas, styled *Mary Jane Colston v. Cleveland Public Library, et al.*, Case No. CV-11-772326 (the “State Action”).

In support of this Removal, Defendants state as follows:

1. On or about December 28, 2011, Plaintiff filed the State Action in the Cuyahoga County Court of Common Pleas. Defendants were served with the Summons and Complaint, as follows:

- Defendant Cleveland Public Library – January 17, 2012
- Defendant Felton Thomas – January 17, 2012
- Defendant Melvin Abrams – not yet properly served
- Defendant Michael Janero – not yet served
- Defendant Sharon Tufts – not yet served

A true and accurate copy of the Complaint, together with the Cuyahoga County Court of Common Pleas Docket and Service information are attached as **Exhibit A**. 28 U.S.C. § 1446(a).

2. Plaintiff appeared and filed a Complaint that asserts a claim for damages for sexual discrimination and harassment under Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991 (“Title VII”), 42 U.S.C. § 2000e, *et seq.*, and under Ohio Revised Code (“R.C.”) Chapter 4112; retaliation; violations of the 5th and 14th Amendments to the United States Constitution and various common law claims.

### **The Process, Pleadings and Order Served Upon Defendants**

3. Defendant Cleveland Public Library was first notified of this lawsuit on December 29, 2011 and it was served with a copy of the Summons and Complaint on or about January 17, 2012 via certified mail.

4. Defendants Sharon Tufts and Michael Janero have not yet been served with the Complaint but they are represented by the undersigned counsel and have no objection to and consent to the removal of the State Court Action to this Court.

5. Defendant Melvin H. Abrams has not been properly served with the Complaint but he has no objection to and consents to the removal of the State Court Action to this Court. A true and accurate copy of the *Declaration of Consent to Removal of Melvin H. Abrams* is attached as **Exhibit B**.

### **Removal is Timely**

6. Pursuant to 29 U.S.C. § 1446(b), Defendants now timely file this *Notice of Removal*. This *Notice of Removal* is timely under 28 U.S.C. § 1446(b) because fewer than thirty days have elapsed since Defendants were served with a copy of Plaintiff’s Complaint.

### **Foundation for Jurisdiction – Federal Question**

7. The basis for this Court’s jurisdiction is federal question under 28 U.S.C. §1331, which provides that the district courts shall have original jurisdiction without regard to amount in controversy of all civil actions arising under the Constitution, laws, or treaties of the United States. With respect to the Court’s federal question jurisdiction, this action is one over which the district courts of the United States have original jurisdiction by reason of the fact that the Plaintiff asserts claims under Title VII that arise under the laws of the United States and under the United States Constitution. Therefore, under 28 U.S.C. §§1331 and 1441(a) and (b), this lawsuit may be removed to this Court. With respect to any remaining state law claims Plaintiff asserts in her Complaint, those claims are all related to the federal claims properly before this Court as they involve the same actors and arise out of a common nucleus of operative facts. Therefore, this Court may exercise supplemental jurisdiction over those claims so that all claims between these parties may be heard in one forum.

### **Venue is Proper**

8. The United States District Court for the Northern District of Ohio is the district embracing the place where this action is pending and where the events alleged in the Complaint purportedly occurred. Therefore, the civil action described above may be removed to this Court pursuant to 28 U.S.C § 1441(a).

### **Notice Given**

9. Defendants have filed a true and correct copy of this *Notice of Removal* with the Clerk of Courts for the Cuyahoga County Court of Common Pleas, Ohio with the *Notice of Filing Notice of Removal* filed therein and served Plaintiff’s attorney, Steven J. Moody, Esq. 28 U.S.C. §

1446(d). A true and accurate copy of *Defendants' Notice of Filing Notice of Removal* filed with the Cuyahoga County Court of Common Pleas is attached as **Exhibit C**.

10. By filing this *Notice of Removal*, Defendants do not waive any defenses that may be available.

11. Defendants request that this Court take jurisdiction of this action to its conclusion and to final judgment to the exclusion of further proceedings in the state court, in accordance with the law.

WHEREFORE, Defendants file this *Notice of Removal* so that the entire State Action, Case No. CV-11-772326, now pending in Cuyahoga County Court of Common Pleas, Ohio shall be removed to this Court for all further proceedings.

Dated: January 27, 2012.

Respectfully submitted,

/s/ Ellen Toth

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