

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

THERESA E. THORNTON and JEREMIAH C.  
MITCHELL, as Co-Administrators of the Estate  
of Curtis L. Mitchell, deceased

Plaintiffs,

CIVIL ACTION No.

v.

CITY OF PITTSBURGH; ROBERT J.  
McCAUGHAN; MARK A BOCIAN; RONALD  
W. ROMANO; JOSIE DIMON; ANDREW  
LAGOMARSINO; KIM LONG; NORMAN  
AUVIL; RON CURRY; ALLEGHENY  
COUNTY; AND COUNTY OF ALLEGHENY  
DEPARTMENT OF EMERGENCY SERVICES

Defendants.

**NOTICE OF REMOVAL**

AND NOW come the Defendants, the City of Pittsburgh, Robert J. McCaughan, Mark A. Bocian, Ronald V. Romano, Josie Dimon, Andrew Lagomarsino, Kim Long, Norman Auvil, and Ron Curry, by and through their undersigned counsel, who file this *Notice of Removal* stating the following:

1. On October 1, 2010, Plaintiffs filed an Amended (Corrected) Complaint in the Court of Common Pleas of Allegheny County and specifically allege in the Pleading that the City of Pittsburgh and the individual defendants are liable pursuant to 42 U.S.C. § 1983. The copy of Plaintiff's Amended (Corrected) Complaint is attached as Ex. "1" to this Notice of Removal.

2. The Plaintiffs further allege in the Pleading that the Defendants acted under the cover of state law and deprived the Plaintiffs' Decedent of rights, privileges and immunities guaranteed under federal law and/or United States Constitution.

3. This action is therefore removable pursuant to section 1441 of the Judicial Code 28 U.S.C. § 1441 because the Amended (Corrected) Complaint asserts claims against these Defendants that arise under the United States Constitution. Therefore, this is a civil action over which the District Court has original jurisdiction under 42 U.S.C. § 1331 and § 1343(a)(3).

4. This notice is filed within thirty (30) days after the City of Pittsburgh received a copy of Plaintiffs' Amended (Corrected) Complaint which apprised the City of Pittsburgh of the nature of the claim and is, therefore, timely filed pursuant to 28 U.S.C. § 1446(b).

5. All Defendants consent to this removal.

WHEREFORE, these Defendants remove this action from the Court of Common Pleas of Allegheny County to the United States District Court for the Western District of Pennsylvania in accordance with 28 U.S.C. §1441, et seq.

Respectfully submitted,

/s/John F. Doherty

John F. Doherty  
Associate City Solicitor  
Pa. I.D. #56418

/s/Michael E. Kennedy

Michael E. Kennedy  
Assistant City Solicitor  
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/s/Daniel D. Regan

Daniel D. Regan  
City Solicitor  
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City of Pittsburgh Department of Law  
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414 Grant Street  
Pittsburgh, PA 15219  
(412) 255-2015

**CERTIFICATE OF SERVICE**

I hereby certify that on the 27<sup>th</sup> day of October, 2010 a true and correct copy of the City of Pittsburgh's *Notice of Removal* was served via first class U.S. mail, postage prepaid, on the following:

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*(Attorney for Allegheny County)*

/s/Michael E. Kennedy  
Michael E. Kennedy  
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