HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LUIS ANTHONY EWING, Plaintiff, v. KEVIN HULL, et al., Defendants.	CASE NO. C12-6011 RBL ORDER

THIS MATTER is before the Court on its own Motion following Plaintiff Ewing's "Petition for Removal" pursuant to 28 U.S.C. §1441 [Dkt. #1]. Plaintiff seeks to remove to this Court four actions he apparently commenced in Kitsap County Superior Court, which he identifies as: Cause Nos. 12-5-00202-1; 127003742; 127003751 and 127003769. None of the state Court records are attached. Plaintiff claims that his lawsuits raise federal questions under 28 U.S.C. §1331. He has also filed a "Petition to Court of Competent Jurisdiction to Invalidate Action Upon Showing of Certain violations of Kitsap County Superior Court" [Dkt. #2].

The right to remove a case from state to federal court is vested exclusively in "the defendant or the defendants." 28 U.S.C. §1441(a). Federal law, not the applicable state statute or

even the pleadings in state court, determines who is a plaintiff and who is a defendant. *Yakama Indian Nation v. State of Wash. Dept. of Revenue*, 176 F.3d 1241, 1248-49 (9th Cir. 1999).

In this case, Luis Ewing appears to be the plaintiff in various state court actions, and he seeks to remove those cases to this court, where he is also the plaintiff. As a plaintiff, Ewing perhaps could have initiated his lawsuit in this Court. But there is no authority for the proposition that as a plaintiff he can remove his state court action(s) to this Court. Indeed, it is clear that he cannot.

Additionally, there is no indication that, even if Ewing is the defendant in the state court case(s), the Notice of Removal is timely under 28 U.S.C. §1446. It is clear that the Notice is insufficient as it does not include the Complaint(s) Ewing is seeking to remove. *See* Local Rule 101(b). Therefore, the cases which are the subject of Ewing's Notice of Removal are hereby REMANDED to the Kitsap County Superior Court.

Plaintiff's Petition to Court of Competent Jurisdiction to Invalidate Action Upon Showing of Certain violations of Kitsap County Superior Court [Dkt. #2] is DENIED as moot.

IT IS SO ORDERED.

Dated this 30th day of November, 2012.

Ronald B. Leighton
United States District Judge