

FILED
U.S. DISTRICT COURT
INDIANAPOLIS DIVISION

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SOUTHERN DISTRICT
OF INDIANA
LAURA L. BRIDGES
CLERK

IN THE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

JOHN DOE and JANE DOE,
Individually, and as Parents and
Natural Guardians of JUNIOR DOE
Plaintiffs,

CASE NO.

v.

BALL STATE UNIVERSITY,
BALL STATE UNIVERSITY BOARD
OF TRUSTEES, JANIS SEGEDY and
BURRIS LABORATORY SCHOOL

1:12-cv-1464-SEB-DML

Defendants.

PETITION FOR REMOVAL

Ball State University, Ball State University Board of Trustees, Janis Segedy, and Burris Laboratory School (collectively, the "Defendants"), by counsel, respectfully petition for removal of this case to this Court pursuant to 28 U.S.C. §§ 1441 *et seq.* In support of this Petition, the Defendants state as follows:

1. The Complaint in this action was initially filed in the Delaware Circuit Court No. 1 on September 28, 2012, and captioned Cause No. 18C01-1209- PL-26. A copy of the Complaint is attached hereto as Defendants' Exhibit "A".
2. On September 28, 2012, the Plaintiffs filed a Verified Petition to Proceed by Anonymous Names. A copy of such petition is attached hereto as Defendants' Exhibit "B". On October 1, 2012, the Honorable Marianne Vorhees granted the petition. A copy of the Order Granting Verified Petition to Proceed by Anonymous Names is attached hereto as Defendants' Exhibit "C".

3. Counsel for the Defendants was provided a courtesy copy of the Complaint by Plaintiffs' counsel on September 28, 2012.

4. The Defendants were first served a summons and copy of the Complaint on or about October 3, 2012.

5. The Complaint alleges that Plaintiffs are residents of Delaware County, Indiana (Ex. "A", ¶ 1).

6. The Complaint alleges that Ball State University, Ball State University Board of Trustees, and Burriss Laboratory School are located in Muncie, Delaware County, Indiana (Ex. "A", ¶¶ 2-4).

7. The Complaint alleges that Janis Segedy is a resident of Delaware County, Indiana, and at all times relevant to the Complaint, was a teacher at Burriss Laboratory School (Ex. "A", ¶ 5).

8. The Complaint alleges that the incidents giving rise to the cause of action occurred in Delaware County, Indiana (Ex. "A", ¶ 6).

9. The Complaint asserts three (3) counts against the Defendants, namely: (i) common law negligence, (ii) violation of Title IX of the Education Amendments of 1972, and (iii) deprivation of constitutional rights in violation of 42 U.S.C. § 1983.

10. 28 U.S.C. § 1331 establishes that the district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

11. 28 U.S.C. § 1441(a) establishes that any civil action brought in a state court of which the district courts have original jurisdiction, may be removed by the defendants to the appropriate district court. Further, 28 U.S.C. § 1441(c) establishes that removal of all of the claims in this civil action (state and federal) is proper.

12. Pursuant to 28 U.S.C. § 1446(b), removal of this case is timely because it is within thirty (30) days of service of the Complaint.

13. The acts are alleged to have occurred in Delaware County, Indiana. Further, the Defendants are each alleged to either reside or have its principal offices located in Delaware County, Indiana. Venue is therefore proper in this district and division pursuant to 28 U.S.C. § 1391(b).

14. On this date, Defendants filed their Notice of Removal with the Clerk of the Delaware Circuit Court.

WHEREFORE, the Defendants, by counsel, respectfully petition this Court for removal of this action pursuant to 28 U.S.C. §§ 1441 *et seq.*; that this Court assume and exercise jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1441, and for all other just and proper relief.

Respectfully submitted this 10th day of October, 2012.

DEFUR VORAN LLP

BY  _____

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing document has been served upon the following this 10th day of October, 2012:

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