

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LOUISE BARRON, JACK BARRON and)
 ARTHUR ST. ANDRE,)
 Plaintiffs,)
)
 vs.)
)
 DANIEL L. KOLENDA, Individually and as)
 a Member of the SOUTHBOROUGH BOARD)
 OF SELECTMEN, and BRIAN SHEA, MARTY)
 HEALEY, LISA BRACCIO and SAM STIVERS,)
 Individually and as Members of the)
 SOUTHBOROUGH BOARD OF SELECTMEN,)
 and the TOWN OF SOUTHBOROUGH,)
 Defendants.)

C.A. No. 1:20-cv-

**NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT COURT
28 U.S.C. § 1441(a)**

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS:

Petitioners, Daniel L. Kolenda, Brian Shea, Marty Healey, Lisa Braccio and Sam Stivers, individually and as Members of the Southborough Board of Selectmen, and the Town of Southborough, respectfully petition this Court, pursuant to 28 U.S.C. § 1441(a), for removal of the above-entitled action to the United States District Court for the District of Massachusetts, Civil Section, from the Superior Court of the Commonwealth of Massachusetts in and for the County of Worcester, and for their Notice of Removal state as follows:

1. The petitioners are named as defendants by the plaintiffs, Louise Barron, Jack Barron and Arthur St. Andre, in a civil action filed in the Superior Court of the Commonwealth of Massachusetts in and for the County of Worcester, entitled Louise Barron, et al. vs. Daniel L. Kolenda, et al., C.A. No. 2085CV00382. On April 21, 2020, the plaintiffs served Summonses and

copies of the Complaint upon the defendants. Copies of the Summonses served upon Marty Healey, Lisa Braccio, Brian Shea, Sam Stivers, and Daniel L. Kolenda are attached hereto as Exhibits “A” through “E,” respectively. A copy of the Complaint is attached hereto as Exhibit “F.” The petitioners have not yet answered or otherwise responded to said Summonses and Complaint, nor has an appearance been filed in the Superior Court on their behalf.

2. This is a suit of a wholly civil nature brought in a Massachusetts state court. The action is pending in the Superior Court of the Commonwealth of Massachusetts in and for the County of Worcester and, accordingly, under 28 U.S.C. § 101 and § 1441(a), the United States District Court for the District of Massachusetts is the proper forum for removal.

3. In Count II of the Complaint, the plaintiff, Louise Barron, alleges that the petitioners violated her First Amendment rights under 42 U.S.C. § 1983.

4. Because this civil action arises under the Constitution and laws of the United States, the United States District Court has original jurisdiction under 28 U.S.C. § 1331.

5. The petitioners are filing this Notice of Removal within thirty (30) days of receipt of the Complaint, within thirty days of the date this action became removable, and within the time for filing this petition. See 28 U.S.C. § 1446.

6. The petitioners will file a Notice of Filing of this Notice of Removal and a copy of this Notice of Removal with the Clerk of the Superior Court of Massachusetts, County of Worcester.

7. Pursuant to Local Rule 81.1(a), the petitioners shall request of the Clerk of the Superior Court of Massachusetts, County of Worcester, certified or attested copies of all records and proceedings in the state court and certified or attested copies of all docket entries therein, and shall file the same with this Court within thirty (30) days after the filing of this Notice of Removal.

WHEREFORE, petitioners, Daniel L. Kolenda, Brian Shea, Marty Healey, Lisa Braccio and Sam Stivers, individually and as Members of the Southborough Board of Selectmen, and the Town of Southborough, pray that the above-entitled action now pending in the Superior Court of the Commonwealth of Massachusetts in and for Worcester County be removed from that Court to this United States District Court.

The Defendants,

DANIEL L. KOLENDA, Individually and as a Member of the SOUTHBOROUGH BOARD OF SELECTMEN, BRIAN SHEA, MARTY HEALEY, LISA BRACCIO and SAM STIVERS, Individually and as they are Members of the SOUTHBOROUGH BOARD OF SELECTMEN, and the TOWN OF SOUTHBOROUGH,

By their Attorneys,

PIERCE DAVIS & PERRITANO LLP

/s/ John J. Davis

John J. Davis, BBO #115890
10 Post Office Square, Suite 1100N
Boston, MA 02109
(617) 350-0950
jdavis@piercedavis.com

Dated: May 21, 2020

CERTIFICATE OF SERVICE

I hereby certify that the foregoing, filed through the Electronic Case Filing System, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and that a paper copy shall be served upon those indicated as non-registered participants on May 21, 2020.

/s/ John J. Davis

John J. Davis, Esq.