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IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

EPILEPSY ASSOCIATION OF
UTAH, a Utah non-profit
corporation; CHRISTINE
STENQUIST; DOUGLAS ARTHUR
RICE; TRUCE, a Utah non-profit
corporation; NATHAN KIZERIAN;
SHALYCE KIZERIAN; ANDREW
TALBOTT, M.D.,

Plaintiffs,

v.

GARY R. HERBERT, Governor of the
State of Utah, in his official capacity;
JOSEPH K. MINER, M.D., MSPH,
Executive Director, Utah
Department of Health, in his official
capacity,

Defendants.

**NOTICE OF REMOVAL OF A CIVIL
ACTION FROM STATE COURT TO
FEDERAL COURT**

Case No.: 2:19-cv-00360-DBP

Magistrate Judge Dustin B. Pead

Pursuant to 28 U.S.C. §§ 1441(a) and (c), and 1446, Defendants Governor Gary R. Herbert and Joseph K. Miner (“Defendants”), by and through counsel, give NOTICE OF REMOVAL of the civil action pending in the Third Judicial District in and for Salt Lake County, State of Utah, entitled *Epilepsy Association of Utah et al., v. Gary R. Herbert et al.*, Case No. 180909139, to this Court. The grounds for removal are as follows:

1. This action was commenced by the filing of a Complaint (the “Initial Complaint”) on December 5, 2018, in the Third Judicial District Court in and for Salt Lake County, State of Utah. On that same date, Defendants received a copy of the Original Complaint.

2. The Initial Complaint was not removable because it raised claims arising only under Utah law, specifically Article VI, Section 1, and Article 1, Section 4 of the Utah Constitution

3. On May 3, 2019, Plaintiffs filed an Amended Complaint in state court.

4. In the Amended Complaint, Plaintiffs included a new cause of action that raised, for the first time in this action, claims arising under federal law.

Accordingly, this Court has original jurisdiction of this action under 28 U.S.C. § 1331, and this action may be removed to this Court under 28 U.S.C. §§ 1441 and 1446.

5. Removal of this action is timely. The Defendant first received the Plaintiffs’ First Amended Complaint on May 3, 2019. *See* 28 U.S.C. § 1446(b)(3)

6. As of the date of this removal, both Defendants have consented to removal.

7. Pursuant to 28 U.S.C. § 1446(a), copies of all process and pleadings that have been received by Defendant and are attached hereto as Exhibit A.

WHEREFORE, Defendants submit this Notice that the above-entitled matter is hereby removed from the Third Judicial District Court in and for Salt Lake County, State of Utah, in accordance with the provisions of 28 U.S.C. § 1446.

DATED: May 23, 2019.

OFFICE OF THE UTAH ATTORNEY
GENERAL

/s/ Andrew Dymek
DAVID N. WOLF
ANDREW DYMEK
Assistant Utah Attorneys General
Counsel for Defendants

CERTIFICATE OF MAILING

I certify that on **May 23, 2019**, I electronically filed the foregoing, **NOTICE OF REMOVAL OF A CIVIL ACTION FROM STATE COURT TO FEDERAL COURT**, using the Court's electronic filing system and I also certify that a true and correct copy of the foregoing was sent by email to the following:

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/s/ Mohamed I. Abdullahi
Legal Secretary