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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

EUGENE DIVISION

**BRANDON AUSTIN,**

Case No. 6:15-cv-2257

Plaintiff,

v.

**DEFENDANTS' NOTICE OF REMOVAL OF  
ACTION UNDER 28 USC §§ 1331, 1332,  
1441, AND 1446  
(FEDERAL QUESTION AND DIVERSITY)**

**UNIVERSITY OF OREGON; SANDY  
WEINTRAUB; CHICORA MARTIN;  
ROBIN HOLMES; and MICHAEL R.  
GOTTFREDSON, all in their individual  
capacities only,**

(Lane County Circuit Court  
Case No.15CV29383)

Defendants.

TO: THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON, EUGENE DIVISION

In accordance with 28 USC §§ 1331, 1332, 1441, and 1446, defendant University of Oregon (the "University") and individual defendants Sandy Weintraub, Chicora Martin, Robin Holmes, and Michael R. Gottfredson (collectively, "Individual Defendants" and together with the University, "Defendants"), by and through their counsel, hereby give notice of removal of the action entitled *Brandon Austin v. University of Oregon, et al.*, Case No. 15CV29383, pending in the Circuit Court of the State of Oregon for the County of Lane, to the United States District Court for the District of Oregon, Eugene Division. All Defendants join in this removal.

#### **BASIS FOR REMOVAL**

1. On or about October 29, 2015, Plaintiff filed a complaint in which he asserted a claim against the Individual Defendants under 42 USC § 1983, as well as several Oregon common-law claims against all Defendants and one Oregon common-law claim against the University.

3. On November 4, 2015, Plaintiff served the summons and complaint on Individual Defendants Weintraub and Holmes. On November 11, 2015, Plaintiff served the summons and complaint on Individual Defendant Martin. On November 16, 2015, defense counsel accepted service of summons and complaint on behalf of the University and Individual Defendant Gottfredson. Copies of all process, pleadings, and orders served on Defendants are attached to this notice as Exhibit 1. Defendants have taken no action in the Circuit Court of the State of Oregon for the County of Lane that would prejudice their right to removal.

4. In accordance with 28 USC § 1446, this Notice of Removal is timely filed within 30 days after service of the initial pleadings on Defendants.

5. This action is one over which this court has original jurisdiction under 28 USC § 1331 because this court has federal question jurisdiction over Plaintiff's claim under 42 USC § 1983. Thus, this action is removable under 28 USC § 1441. Plaintiff's other claims are so related to the claim within this court's original jurisdiction that they form part of the same case or controversy and this court may exercise supplemental jurisdiction over the other claims in accordance with 28 USC § 1367.

6. This court also has original jurisdiction over all of Plaintiff's claims in this action under 28 USC § 1332. Complete diversity exists between the parties: Plaintiff is not a citizen of Oregon or California and he is either a citizen of Pennsylvania or Florida; the University and Individual Defendants Weintraub and Holmes are citizens of Oregon; and Individual Defendants Martin and Gottfredson are citizens of California. Plaintiff's complaint alleges damages that exceed the \$75,000 jurisdictional amount. Thus, this action is removable under 28 USC § 1441.

7. This action may be removed by Defendants to this court under the provisions of 28 USC § 1441, according to the procedure in 28 USC § 1446. All Defendants join this removal.

8. Promptly after filing this Notice of Removal, Defendants will serve a copy upon Plaintiff and will file a copy with the Clerk of the Circuit Court for Lane County, Oregon.

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WHEREFORE, Defendants remove the above-entitled action now pending in the Circuit Court of the State of Oregon for the County of Lane, to the United States District Court for the District of Oregon.

DATED this 2nd day of December, 2015.

MILLER NASH GRAHAM & DUNN LLP

/s/ Michelle Barton Smigel

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*Attorneys for Defendants University of Oregon,  
Sandy Weintraub, Chicora Martin, Robin Holmes  
and Michael R. Gottfredson*

I hereby certify that I served the foregoing Defendants' Notice of Removal of Action Under 28 USC §§ 1331, 1332, 1441, and 1446 (Federal Question and Diversity) on:

Ms. Marianne Dugan  
259 East 5th Avenue, Suite 200-D  
Eugene, Oregon 97401  
Fax: (866) 650-5213  
E-mail: mdugan@mdugan.com

*Attorneys for Plaintiff Brandon Austin*

by the following indicated method or methods on the date set forth below:

- CM/ECF system transmission.**
- E-mail.** (Courtesy copy.)
- Facsimile communication device.**
- First-class mail, postage prepaid.**
- Hand-delivery.**
- Overnight courier, delivery prepaid.**

DATED this 2nd day of December, 2015.

*/s/Michelle Barton Smigel*

Michelle Barton Smigel, OSB No. 045530

*Of Attorneys for Defendants University of Oregon, Sandy Weintraub, Chicora Martin, Robin Holmes, and Michael R. Gottfredson*