

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN OF TEXAS
HOUSTON DIVISION**

JUSTIN CARL PFEIFFER
Plaintiff,

vs.

CHARLES R. ESKRIDGE, III,
UNITED STATES DISTRICT JUDGE
Defendant.

§
§
§
§
§
§
§
§
§
§

Case No. 4:22-cv-1250

NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS:

The United States of America (“the United States”), on behalf of Defendant Charles R. Eskridge, III, a United States District Judge and member of the United States Judiciary, together with Defendant Charles R. Eskridge, III (“Judge Eskridge”), by and through Jennifer B. Lowrey, United States Attorney for the Southern District of Texas, respectfully remove this action to the United States District Court for the Southern District of Texas. In support of the removal, the United States and Judge Eskridge show as follows:

1. On or about December 13, 2021, Plaintiff Justin Carl Pfeiffer filed a lawsuit in Justice of the Peace Court, Precinct Four, Fort Bend County, Texas, styled and numbered Justin Carl Pfeiffer, Plaintiff, v. Charles R. Eskridge, III, Defendant, Cause No. 21-JSC11-00265. True copies of the live pleadings and service documents in this suit are attached. Plaintiff asserts in the Original Petition filed in this suit that Judge Eskridge, while presiding over a federal court case between Plaintiff and his former law firm, committed the state law tort of conversion when he directed Plaintiff to produce various documents and storage media that Plaintiff had retrieved from his

former firm.

2. Proper service of process has never been made upon Judge Eskridge, for no copy of the pleadings or a summons has ever been served by Plaintiff upon Judge Eskridge in accordance with the Texas Rules of Civil Procedure, nor has service of process been effected upon the United States Attorney, as required by Rule 4(i)(2)(A) and (B) of the Federal Rules of Civil Procedure when federal officers or employees are sued in either their official or individual capacities or in both such capacities.

3. The action is removable pursuant to 28 U.S.C. § 1442(a)(1) and (3). Judge Eskridge is a United States District Judge, and as such is an officer of the United States, and in particular an officer of the courts of the United States. He has been sued for actions alleged to have been taken under color of federal law, under color of his office, and in the performance of his duties.

4. To the extent necessary or appropriate, the United States and Judge Eskridge aver the Supremacy Clause of the United States Constitution as a colorable federal defense in this suit. Further, and also to the extent necessary or appropriate, the United States and Judge Eskridge aver that Judge Eskridge is, under federal law, absolutely immune from any liability for any and all actions taken with regard to federal court case involving Plaintiff and his former law firm. Alternatively, Judge Eskridge is, pursuant to 28 U.S.C. § 2679(b)(1), entitled to absolute immunity with regard Plaintiff's state law conversion claim (which is the only claim asserted in Plaintiff's suit), because it is based upon actions taken by Judge Eskridge acting in his capacity as a judicial officer of the United States, whether or not such actions were negligent or otherwise wrongful.

5. Attached, pursuant to 28 U.S.C. § 1446(a) and Local Rule 3(k), are: an index; docket sheet; copies of all process, pleadings and orders in the state court; and a list of all counsel of record.

6. The undersigned attorney shall give written notice of this removal by promptly filing a Notice to State Court of Filing of Notice of Removal with the Judge of the Justice Court, Precinct 4, Fort Bend County, Texas, and with the County Clerk for Fort Bend County, Texas. A copy of this notice is attached. See 28 U.S.C. § 1446(d). The undersigned shall also serve notice upon Plaintiff Justin Carl Pfeiffer.

WHEREFORE, the United States and Judge Eskridge pray that this action, having been removed to this Court from the Justice of the Peace Court, Precinct Four, Fort Bend County, Texas, proceed in this Court, and that the United States and Judge Eskridge be afforded such other and further relief to which they are entitled.

Respectfully submitted,

JENNIFER B. LOWREY
United States Attorney

By: /s/ David L. Guerra
David L. Guerra
Assistant United States Attorney
Texas State Bar No. 08575200
Southern Dist. of Texas No. 14435
1701 W. Hwy. 83, Suite 600
McAllen, Texas 78501
(956) 618-8010
(956) 618-8016 (fax)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Removal was served on this date by first class and by certified mail, postage prepaid, addressed as follows:

Justin Carl Pfeiffer
5200 Pointe West Cir.
Apt. # 15101
Richmond, Texas 77469
Email: jcpfeiff@umich.edu

Pre Se Plaintiff

April 20, 2022
DATED

/s/ David L. Guerra
Assistant U.S. Attorney

INDEX OF THE PLEADINGS, ORDERS AND EXECUTED PROCESS

The following list includes all of the instruments filed in state court as of April 20, 2022:

1. Plaintiff's Original Petition
2. Citation for Service
3. Docket Sheet, Justice of the Peace Court, Precinct Four, Fort Bend County

ALL ATTORNEYS OR PRO SE PARTIES APPEARING IN THE PROCEEDING

Pro Se Plaintiff:

Justin Carl Pfeiffer
5200 Pointe West Cir.
Apt. # 15101
Richmond, Texas 77469
Email: jcpfeiff@umich.edu

Attorney for United States of America and
U.S. District Judge Charles R. Eskridge, III:

David L. Guerra
Assistant United States Attorney
1701 W. Hwy. 83, Suite 600
McAllen, TX 78501
956-618-8010
956-618-8016 (fax)
Texas Bar No. 08575200
Southern Dist. of Texas No. 14435
Email: David.Guerra@usdoj.gov