

CAUSE NO. 2022-11380

JAMES C. MASTANDREA § IN THE DISTRICT COURT OF
 §
v. § HARRIS COUNTY, TEXAS
 §
DAVID TAYLOR, JACK MAHAFFEY, §
JEFF JONES, NANDITA BERRY, §
DAVID HOLEMAN, CHRISTINE §
KROMBEEN MASTANDREA, PETER §
TROPOLI, and WHITESTONE REIT § 215TH JUDICIAL DISTRICT

NOTICE OF REMOVAL BY PLAINTIFF JAMES C. MASTANDREA

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW James C. Mastandrea, Plaintiff in the above-referenced case (“Plaintiff”), and files this Notice of Removal and would respectfully show this Court as follows:

1. Plaintiff hereby notifies the Court and all parties herein that this case has been removed to the United States District Court for Southern District of Texas, Houston Division, pursuant to 28 U.S.C. § 1452. The removed case has been assigned Case Number 4:24-cv-1571.
2. A true and correct copy of the Notice of Removal filed in the United States District Court for the Southern District of Texas, Houston Division is attached hereto as **Exhibit “A.”**

Dated: April 26, 2024.

Respectfully submitted,

/s/ Thomas R. Ajamie
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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on the 26 day of April, 2024, a true and correct copy of the foregoing document was served on all counsel of record via the electronic filing manager utilized to file this document with the court.

/s/ Mike O'Brien
Mike O'Brien

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Brenda Moyle on behalf of Mike O'Brien
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Envelope ID: 87126750
Filing Code Description: Notice
Filing Description: Plaintiff's Notice of Removal
Status as of 4/29/2024 8:18 AM CST

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

JAMES C. MASTANDREA,

Plaintiff

v.

**DAVID TAYLOR, JACK
MAHAFFEY, JEFF JONES,
NANDITA BERRY, DAVID
HOLEMAN, CHRISTINE
KROMBEEN MASTANDREA,
PETER TROPOLI, and
WHITESTONE REIT,**

Defendants

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CASE NO. _____

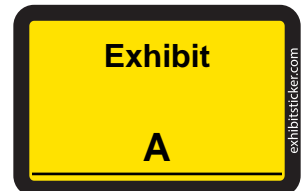
NOTICE OF REMOVAL BY PLAINTIFF JAMES C. MASTANDREA

COMES NOW JAMES C. MASTANDREA, Plaintiff in the above-referenced case (“Plaintiff”) and file this Notice of Removal and would respectfully show this Court as follows:

I.

THE REMOVED PROCEEDING

1. The underlying case was filed on February 23, 2022, in the 215th Judicial District Court of Harris County, Texas, Cause No. 2022-11380, and is styled *James C. Mastandrea vs. David Taylor, Jack Mahaffey, Jeff Jones, Nandita Berry, David Holeman, Christine Krombeen Mastandrea, Peter Tropoli and Whitestone REIT* (the “State Court Lawsuit”). The Defendants’ attorneys-of-record are:



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II.

GROUNDS FOR REMOVAL

2. On March 4, 2024, Pillarstone Capital REIT and Pillarstone Capital REIT Operating Partnership, L.P. filed for bankruptcy under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Texas styled:

- No. 24-30656-swe-11; In Re: Pillarstone Capital REIT Operating Partnership, LP; and
- No. 24-30657-sgj-11; In Re: Pillarstone Capital REIT.

3. The State Court Lawsuit is removed pursuant to 28 U.S.C. § 1452. Federal courts have “related to” subject matter jurisdiction over litigation in state court if the “proceeding could conceivably affect the estate being administered in bankruptcy.” *Lone Star Fund V (U.S.) LP v. Barclays Bank PLC*, 594 F.3d 383, 386 (5th Cir. 2010).” Related to” jurisdiction is broad enough to encompass any litigation where “the outcome could alter, positively or negatively, the debtor’s rights, liabilities, options, or freedom of action or could influence the administration of the bankrupt estate.” *Id.* at 386. Contractual indemnification rights may give rise to “related to” jurisdiction. *Lone Star Fund V (U.S.)*

LP v. Barclays Bank PLC, 594 F.3d at 387 (“This circuit has already ruled, moreover, that contractual indemnification rights may give rise to ‘related to’ jurisdiction”).

4. The state court lawsuit brought by Whitestone REIT (“Whitestone”) alleges that Mastandrea, acting as an officer/trustee of the debtor, Pillarstone Capital REIT (“Pillarstone”) took actions on behalf of Pillarstone which financially harmed Whitestone. These allegations involve millions of dollars in claimed damages and give rise to contractual indemnification in favor of Mastandrea and against the debtor, Pillarstone. Mastandrea has previously filed a Proof of Claim for contractual indemnity against Pillarstone in the bankruptcy proceedings.

5. Upon removal to this Court, Plaintiff intends to move this Court for an order transferring this action to the United States District Court for the Northern District of Texas, Dallas Division, and from that court to the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, where the Bankruptcy Cases are pending.

6. Plaintiff will promptly file a copy of this notice of removal with the clerk of the State Court Lawsuit pursuant to Federal Rule of Bankruptcy Procedure 9027(c).

7. Plaintiff consents to entry of final orders or judgment by the bankruptcy court.

8. Pursuant to LR 81 of the Southern District of Texas, Plaintiff is filing with this Notice of Removal the following:

- 1) All executed process in the case;
- 2) Pleadings asserting causes of action, e.g., petitions, counterclaims, cross actions, third-party actions, interventions and all answers to such pleadings;

- 3) All orders signed by the state judge;
- 4) The docket sheet;
- 5) An index of matters being filed; and
- 6) A list of all counsel of record, including addresses, telephone numbers and parties represented.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests that the State Court Lawsuit be removed to the United States District Court for the Southern District of Texas, Houston Division, and for such other and further relief to which he may be justly entitled.

Respectfully submitted,

~~By~~ Mike O'Brien

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of this Notice of Removal has been delivered to all counsel of record listed below, via any proper method of service allowed by the Federal Rules of Civil Procedure or via any method of service agreed to the parties, on this the 26th day of April, 2024.

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/s/ Mike O'Brien

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