

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS  
FOURTH DIVISION**

**DEBORAH SPRINGER SUTTLAR, JUDY GREEN, FRED LOVE,  
in his individual and official capacity as State Representative,  
KWAMI ABDUL-BEY, CLARICE ABDUL-BEY, and  
PAULA WITHERS,**

**PLAINTIFFS**

vs.

**CASE NO. 60CV-22-1849**

**JOHN THURSTON, in his official capacity  
as the Secretary of State of Arkansas and in his official capacity  
as the Chairman of the Arkansas State Board of Election Commissioners;  
and SHARON BROOKS, BILENDA  
HARRIS-RITTER, WILLIAM LUTHER,  
CHARLES ROBERTS, WENDY BRANDON, JAMIE CLEMMER and  
JAMES HARMON SMITH III, in their official capacities  
as members of the Arkansas State Board of  
Election Commissioners,**

**DEFENDANTS**

**NOTICE OF FILING NOTICE OF REMOVAL**

Take notice that Defendants have filed a Notice of Removal in the United States District Court for the Eastern District of Arkansas, Central Division, a true and correct copy of which is attached hereto and incorporated herein as Exhibit A. Pursuant to 28 U.S.C. 1446(d), the filing of the federal-court notice of removal in this Court “shall effect the removal and the State court shall proceed no further unless and until the case is remanded.”

Respectfully submitted,

LESLIE RUTLEDGE  
Arkansas Attorney General

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*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I, Dylan L. Jacobs, hereby certify that on April 22, 2022, I electronically filed the foregoing with the Clerk of the Court using the Court's eflex system, which shall advise all parties of record.

# Exhibit A

**CASE NO. 60CV-22-1849**



IN THE UNITED STATES DISTRICT COURT,  
EASTERN DISTRICT OF ARKANSAS  
CENTRAL DIVISION

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT ARKANSAS

APR 22 2022

TAMMY H. DOWNS, CLERK

DEBORAH SPRINGER SUTTLAR, JUDY GREEN, FRED LOVE  
in his individual and official capacity as State Representative,  
KWAMI ABDUL-BEY, CLARICE ABDUL-BEY, and  
PAULA WITHERS,

By: \_\_\_\_\_  
DEP CLERK

PLAINTIFFS

vs.

CASE NO. 4:22-cv-368-KGB

JOHN THURSTON, in his official capacity  
as the Secretary of State of Arkansas and in his official capacity  
as the Chairman of the Arkansas State Board of Election Commissioners;  
and SHARON BROOKS, BILENDA  
HARRIS-RITTER, WILLIAM LUTHER,  
CHARLES ROBERTS, WENDY BRANDON, JAMIE CLEMMER and  
JAMES HARMON SMITH III, in their official capacities  
as members of the Arkansas State Board of  
Election Commissioners

This case assigned to District Judge Baker  
and to Magistrate Judge Finley

DEFENDANTS

NOTICE OF REMOVAL

Defendants hereby remove this action from the Circuit Court of Pulaski County,  
Arkansas, pursuant to 28 U.S.C. § 1441, 1443 and, in support, state:

1. Plaintiffs are Arkansans residing in Pulaski County. On March 21, 2022, they  
filed a complaint in the Circuit Court of Pulaski County, Arkansas, claiming that the Arkansas  
General Assembly's 2021 reapportionment of the State's four congressional districts following  
the 2020 Census violates the Arkansas Constitution. See Complaint, *Suttlar v. Thurston*, No.  
60CV-22-1849; Ark. Code Ann. 7-2-101 *et seq.* Defendants were served with the Complaint and  
Summons on March 24, 2022.

2. This civil action is removable under 28 U.S.C. 1443. Under that provision, a civil  
action "commenced in State court may be removed by the defendant to the district court of the

United States for the district and division embracing the place wherein it is pending,” if the defendant is either “act[ing] under color of authority derived from any law providing for equal rights, or . . . refusing to do any act on the ground that it would be inconsistent with such law.” *Id.* 1443(2).

3. Plaintiffs claim that Arkansas’s congressional districts dilute the voting power of black Arkansans. They ask the state court to order the General Assembly to adopt new congressional maps using a race-based litmus test. Such a requirement would run afoul of the Voting Rights Act and the Equal Protection Clause. *See, e.g., Wis. Legislature v. Wis. Elections Comm’n*, 142 S. Ct. 1245 (2022) (“Under the Equal Protection Clause, districting maps that sort voters on the basis of race ‘are by their very nature odious.’”) (quoting *Shaw v. Reno*, 509 U.S. 630, 643 (1993)).

4. “This presents a colorable conflict between state and federal law sufficient to justify removal under § 1443(2).” *Alonzo v. City of Corpus Christi*, 68 F.3d 944, 946 (5th Cir. 1995). “The purpose of [1443(2)’s] ‘refusal clause’ is to provide a federal forum for state officials who uphold equal protection in the face of” state-law suits. *Greenberg v. Veteran*, 889 F.2d 418, 421 (2d Cir. 1989) (reversing order that remanded claim removed under Section 1443(2) on the ground that the defendant invoked an equal-protection defense); *accord White v. Wellington*, 627 F.2d 582, 584-88 (2d Cir. 1980). The refusal clause also applies to “law[s] providing for equal rights,” 28 U.S.C. 1443(2), including the Voting Rights Act. *See Sexton v. Servaas*, 33 F.3d 799, 803-04 (7th Cir. 1994); *Cavanagh v. Brock*, 577 F. Supp. 176, 180 (E.D.N.C. 1983) (three-judge court) (sustaining removal under Section 1443(2) in an apportionment suit asserting only state constitutional claims on the basis of Voting Rights Act and Equal Protection Clause defenses).

5. For purposes of removal, all that Defendants must allege is a “colorable” allegation that a “state court might force [them]—against their will—to violate the Voting Rights Act” or the Equal Protection Clause, even if that allegation might potentially be disproved at a later stage in this case. *Sexson*, 33 F.3d at 803-04 (7th Cir. 1994); accord *Greenberg*, 889 F.2d at 421 (requiring defendants to merely “make a colorable claim that they are being sued for not acting pursuant to a state law, which, though facially neutral, would produce or perpetuate a racially discriminatory practice as applied”) (internal quotation marks omitted) (quoting *White*, 627 F.2d at 586). Because of the potential for a state court to reach a result in Plaintiffs’ suit that creates a conflict between Defendants’ state-law duties and the Equal Protection Clause or Voting Rights Act, this civil action is removable under 28 U.S.C. 1443(2).

6. Plaintiffs’ claims under the Arkansas Constitution are also part of a “civil action[] arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. 1331. Their claims, challenge the Arkansas General Assembly’s exercise of its enumerated powers under the U.S. Constitution: “The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof[.]” U.S. Const. art. I, sec. 4, cl. 1; see *Bush v. Gore*, 531 U.S. 98, 112 (2000) (Rehnquist, C.J., concurring) (“[T]here are a few exceptional cases in which the Constitution imposes a duty or confers a power on a particular branch of a State’s government. This is one of them.”).

7. This Notice of Removal is timely filed within 30 days’ receipt of the Complaint, which is “the initial pleading setting forth the claim for relief upon which such action or proceeding is based.” 28 U.S.C. 1446(b)(1).

8. True and correct copies of all process, pleadings, and orders served upon Defendants are attached to this notice of removal as required by 28 U.S.C. 1446(a).

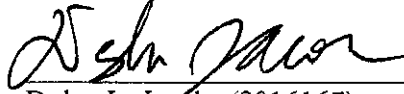
9. Pursuant to 28 U.S.C. 1446(d), Defendants will promptly serve upon Plaintiffs' counsel and file with the Circuit Court of Pulaski County, Arkansas, a true and correct copy of this Notice of Removal.

WHEREFORE, Defendants remove this action from the Circuit Court of Pulaski County, Arkansas, to this Court pursuant to 28 U.S.C. § 1441, 1443.



Respectfully submitted,

LESLIE RUTLEDGE  
Arkansas Attorney General



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**CERTIFICATE OF SERVICE**

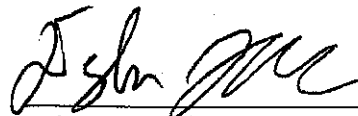
I, Dylan L. Jacobs, hereby certify that on April 22, 2022, I served a copy of the foregoing by electronic mail upon the following:

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