

Laura E. Rosenbaum, OSB No. 110061
laura.rosenbaum@stoel.com
Noah H. Morss, OSB No. 172845
noah.morss@stoel.com
STOEL RIVES LLP
760 SW Ninth Avenue, Suite 3000
Portland, OR 97205
Telephone: 503.224.3380
Facsimile: 503.220.2480

Attorneys for Defendant Kaiser Foundation
Health Plan of the Northwest

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

EMILY CASTELLANOS,

Case No.: 6:22-CV-00149

Plaintiff,

**NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. §§ 1331,
1441, and 1446**

v.

KAISER FOUNDATION HEALTH PLAN
OF THE NORTHWEST; SERVICE
EMPLOYEES INTERNATIONAL UNION
LOCAL 49,

Defendants.

TO: THE CLERK OF THE ABOVE-ENTITLED COURT

AND TO: PLAINTIFF EMILY CASTELLANOS

AND TO: SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 49

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. § 1441, Defendant Kaiser Foundation Health Plan of the Northwest (“Kaiser”) hereby removes to this Court the state court action described below.

1. On October 14, 2021, an action was commenced against Kaiser in the Circuit Court of the State of Oregon in the County of Marion, entitled *Emily Castellanos v. Kaiser Foundation Hospitals*, No. 21CV40666 (“State Action”). Plaintiff filed her First Amended Complaint against Kaiser on December 6, 2021, adding Service Employees International Union Local 49 (“SEIU”) as a Defendant. Attached as Exhibit 1 are copies of the First Amended Complaint and the Complaint.

2. On December 28, 2021, Kaiser was served with a copy of the Summons and First Amended Complaint. Attached as Exhibit 2 are copies of the Proofs of Service, Summonses, and the Acceptance of Service.

3. Exhibits 1 and 2 constitute all of the process, pleadings and orders in the State Action to date.

4. This Removal Notice is filed timely within 30 days after service of process under 28 U.S.C. § 1446(b).

5. Kaiser did not answer or otherwise respond to the Complaint or the First Amended Complaint prior to filing this Notice of Removal and the associated paperwork. Kaiser will file its Answer in this court upon Removal.

6. The First Amended Complaint makes allegations that require interpretation of a Collective Bargaining agreement between Kaiser and Defendant Service Employees International Union.

7. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1331, and is one which may be properly removed to this Court pursuant to 28 U.S.C. § 1441(a) because Plaintiff's First Amended Complaint asserts claims that are preempted by § 301 of the Labor Management Relations Act, 29 U.S.C. § 185(a).

8. Removal to the United States District Court for the District of Oregon, Eugene Division, is proper because it is the judicial district embracing the place where this action is pending. *See* 28 U.S.C. § 1441(a); Local Rule 3-2(a).

9. Upon filing this Notice of Removal, Kaiser shall give written notice to Marcus Vejar and Amanda Reilly, attorneys for Plaintiff. Defendant SEIU has not yet appeared in this case. Kaiser shall also file a copy of the Notice of Removal with the Clerk of the Circuit Court of the State of Oregon for the County of Marion, as required by 28 U.S.C. § 1446(d).

10. By filing this Notice of Removal, Kaiser does not waive, and expressly reserves, any defenses that may be available.

WHEREFORE, Kaiser removes the above-captioned action now pending against it in the Circuit Court of the State of Oregon for the County of Marion to the U.S. District Court for the District of Oregon, Eugene Division, where it shall proceed as an action originally commenced there.

DATED: January 27, 2022.

STOEL RIVES LLP

/s/ Laura E. Rosenbaum
LAURA E. ROSENBAUM, OSB No. 110061
laura.rosenbaum@stoel.com
NOAH H. MORSS, OSB No. 172845
noah.morss@stoel.com
Telephone: 503.224.3380

Attorneys for Defendant Kaiser

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. §§ 1331, 1441, and 1446** on the following named person(s) on the date indicated below by

- mailing with postage prepaid
- hand delivery
- facsimile transmission
- overnight delivery
- email
- notice of electronic filing using the Cm/ECF system

to said person(s) a true copy thereof, and if by mail, contained in a sealed envelope, addressed to said person(s) at his or her last-known address(es) indicated below.

Marcus I. Vejar
Amanda L. Reilly
Lafky & Lafky
429 Court St. NE
Salem, OR 97301
mvejar@lafky.com
areilly@lafky.com

DATED: January 27, 2022.

STOEL RIVES LLP

/s/ Laura E. Rosenbaum
LAURA E. ROSENBAUM, OSB No. 110061
laura.rosenbaum@stoel.com
NOAH H. MORSS, OSB No. 172845
noah.morss@stoel.com

Attorneys for Defendant

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IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF MARION

| | | |
|------------------------------|---|---------------------------------------|
| EMILY CASTELLANOS, |) | Case No. <u>21CV40666</u> |
| |) | |
| Plaintiff, |) | COMPLAINT- WHISTLEBLOWER |
| |) | DISCRIMINATION (ORS 659A.199); |
| v. |) | WRONGFUL TERMINATION; NURSE |
| |) | STAFFING LAWS (441.181); BREACH OF |
| KAISER FOUNDATION HOSPITALS, |) | CONTRACT |
| |) | |
| Defendant. |) | (Jury Trial Requested; Not Subject to |
| |) | Mandatory Arbitration) |
| |) | |
| |) | (Prayer for Relief: \$500,000) |
| |) | |

Emily Castellanos (“Plaintiff”) alleges:

JURISDICTION AND VENUE

1.

Plaintiff is a resident of Marion County, Oregon. Defendant Kaiser Foundation Hospitals (“Defendant”), is national organization with offices and hospitals throughout the country, including in Marion County Oregon. The North Lancaster Urgent Care operated by Defendant located in Marion County, Oregon was the physical place of employment for Plaintiff.

2.

Venue and jurisdiction are proper in this Court because Defendant is a business entity which owns and operates locations within Marion County Oregon.

3.

The events giving rise to this complaint occurred primarily in Marion County, Oregon.

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