

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
WESTERN DIVISION**

JAMES HUNTER; SHERI HUNTER;
BRADLEY HUTHISON; KATHERINE
HUTCHISON; SUSAN KELLEY; WILLIAM
MCCONNELL; CINDY O’HEARN;
MICHAEL O’HEARN; BARBARA OLIVER;
JAMES RINE; MARY RINE; STEPHANIE
SHOLES,

Petitioners,

v.

PAGE COUNTY, IOWA; BOARD OF
SUPERVISORS OF PAGE COUNTY,
IOWA; ALAN ARMSTRONG; JACOB
HOLMES; JAMES KING; CHUCK MORRIS;
CARL SONKSEN,

Respondents.

CASE NO. 1:22-cv-17

Removed from the Iowa District Court for
Page County, Case No.: EQCV105928

NOTICE OF REMOVAL

Respondents Page County, Iowa and Board of Supervisors of Page County, Iowa (“the County”) hereby give notice of their removal of this lawsuit from state court to federal court pursuant to 28 U.S.C. §§ 1441 and 1446, and in support, state as follows:

1. On September 19, 2022, Petitioners filed a lawsuit in the Iowa District Court for Page County against the County and other individual respondents entitled *James Hunter; Sheri Hunter; Bradley Huthison; Katherine Hutchison; Susan Kelley; William McConnell; Cindy O’Hearn; Michael O’Hearn; Barbara Oliver; James Rine; Mary Rine; Stephanie Sholes v. Page County, Iowa; Board of Supervisors of Page County, Iowa; Alan Armstrong; Jacob Holmes; James King; Chuck Morris; Carl Sonksen*, Page County Case No. EQCV105928.

2. Petitioners served the Original Notice and Petition on the County on September 22, 2022 by personally serving the Page County Auditor as authorized by Iowa Rule of Civil Procedure 1.305(9).

3. The record and affidavits on file for service indicate that, to date, Respondents Alan Armstrong, Jacob Holmes, James King, Chuck Morris, and Carl Sonksen (“Individual Respondents”) have not been personally served with the Original Notice and Petition in accordance with the Iowa Rules of Civil Procedure. *See* Return of Original Notice; Iowa R. Civ. P. 1.305(1). In addition, the Individual Respondents are merely nominal or formal party-defendants.

4. This case falls within this Court’s original jurisdiction pursuant to 28 U.S.C. § 1331 because Petitioners’ Petition alleges a claim arising under the United States Constitution. Specifically, Petitioners’ Petition asserts a claim under the Fourteenth Amendment’s Due Process Clause, alleging the local ordinance at issue is void for vagueness and seeking declaratory and injunctive relief. *See* Petition ¶¶ 604, 605, 625, 628.

5. Petitioners’ remaining state law claims falls within the Court’s supplemental jurisdiction under 28 U.S.C. § 1367 because the claims are part of the same case or controversy as the federal claim.

6. This case is properly removed to this Court pursuant to 28 U.S.C. §§ 1441 and 1446. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is being filed within 30 days of service of the Petition on the County

7. The state court in which this lawsuit was filed is within this Court’s district and division.

8. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be filed promptly with the state court and served upon the other parties.

9. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81(a), copies of all documents filed in the state court action are being filed with this Notice.

WHEREFORE, Respondents Page County, Iowa, and Board of Supervisors of Page County, Iowa hereby notify this Court, the state court, and the parties of the removal of this case to the United States District Court for the Southern District of Iowa, Western Division.

Respectfully submitted,

/s/ Jason M. Craig

Jason M. Craig (AT0001707)
Maria E. Brownell (AT0010240)
Emily A. Kolbe (AT0012313)
AHLERS & COONEY, P.C.
100 Court Avenue, Suite 600
Des Moines, Iowa 50309-2231
(515) 243-7611
(515) 243-2149 (fax)
jcraig@ahlerslaw.com
mbrownell@ahlerslaw.com
ekolbe@ahlerslaw.com

ATTORNEYS FOR RESPONDENTS PAGE
COUNTY, IOWA AND THE BOARD OF
SUPERVISORS OF PAGE COUNTY, IOWA

Electrically filed and served:

Theodore Sporer
108 Third Street, Suite 302
Des Moines, Iowa 50309-4758
Telephone: (515) 989-6080
Facsimile: (515) 414-7679
Email: teddy@sporerlaw.com

Shawn Shearer
The Shearer Law Office, P.C.
108 Third Street, Suite 302
Des Moines, Iowa 50309-4758
Telephone: (214) 717-1828
Email: shawn@shearerlaw.pro

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on: October 18, 2022

By: ☐ U.S. Mail ☐ Fax
☐ Hand delivery ☐ Private Carrier
☒ Electronically (*via EDMS*) ☒ E-mail

Signature: /s/ Pam Morelius

ATTORNEYS FOR PETITIONERS

Bret A. Dublinske
Brant M. Leonard
Kristy Dahl Rogers
FREDRIKSON & BYRON, P.A.
111 East Grand Avenue, Suite 301
Des Moines, IA 50309
Phone: (515) 242-8900
Fax: (515) 242-8950
Email: bdublinske@fredlaw.com
bleonard@fredlaw.com
krogers@fredlaw.com

ATTORNEYS FOR PROPOSED
INTERVENOR SHENANDOAH
HILLS WIND PROJECT, LLC