

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SHIRLEY SHERROD,)	
3143 Cane Mill Drive)	
Albany, Georgia)	Case No. 11-
Plaintiff,)	
)	
v.)	
)	
ANDREW BREITBART)	
12160 La Casa Lane)	
Brentwood, California)	
)	
and)	
)	
LARRY O'CONNOR,)	
15301 Ashley Court)	
Whittier, California)	
)	
and)	
)	
and JOHN DOE,)	
Person and Address Unknown)	
Defendants.)	

NOTICE OF REMOVAL

Defendants Andrew Breitbart (“Breitbart”) and Larry O’Connor (“O’Connor”) are appearing specially to file this removal petition, and reserve the right to present all applicable claims and defenses, including service of process and jurisdictional defenses.

Breitbart and O’Connor, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, hereby remove the civil action currently pending in the Superior Court of the District of Columbia, Civil Division under the caption and case number *Shirley Sherrod v. Andrew Breitbart, Larry O’Connor, and John Doe*, Civil Action No. 0001157-11 (the “Superior Court Action”) to this Court. As required by 28 U.S.C. § 1446(d), a copy of this Notice is being contemporaneously

transmitted to Clerk of the Superior Court of the District of Columbia, Civil Division for prompt filing.

In support of this Notice of Removal, Breitbart and O'Connor show the Court as follows:

FACTUAL AND PROCEDURAL BACKGROUND

1. The Plaintiff Shirley Sherrod ("Sherrod") initiated the Superior Court Action in the Superior Court of the District of Columbia on February 11, 2011. Copies of the Summonses and Complaint filed in the Superior Court Action are attached as Exhibit A and Exhibit B, respectively.

2. Sherrod purported to serve Breitbart and O'Connor by hand within the District of Columbia on February 12, 2011.

3. Neither Breitbart, O'Connor, or John Doe have answered or otherwise appeared in the Superior Court Action.

4. Because the Superior Court Action first became removable twenty (20) days ago when the Summonses and Complaint were purportedly served upon Breitbart and O'Connor on February 12, 2011, this Notice is timely under 28 U.S.C. § 1446(b).

PARTIES, JURISDICTION, AND VENUE

5. Although Breitbart and O'Connor do not concede that venue is proper in the United States District Court for the District of Columbia, removal to this district is proper under 28 U.S.C. § 1446(a) because this is the district embracing the place where the Superior Court Action is pending.

6. Plaintiff Sherrod alleges she is a citizen and resident of Georgia.

7. Defendant Breitbart is a citizen and resident of California.

8. Defendant O'Connor is a citizen and resident of California.

9. The citizenship of Defendant John Doe must be disregarded for the purposes of removal under 28 U.S.C. § 1441(a). (“For purposes of removal under [§ 1441], the citizenship of defendants sued under fictitious names shall be disregarded.”).

10. Accordingly, there is complete diversity of citizenship.

11. As set forth more fully below, the amount in controversy in this matter exceeds \$75,000.

12. In the Complaint, Sherrod alleges that the Defendants published an allegedly defamatory video and allegedly defamatory statements on the websites BigGovernment.com, YouTube.com, and Twitter.com and asserts claims for relief based upon (1) defamation; (2) false light; and (3) intentional infliction of emotional distress. Sherrod also seeks injunctive relief.

13. Sherrod alleges that, as a result of the Defendants’ allegedly defamatory conduct, she suffered “serious reputational, financial, and professional damage,” and was forced to resign on July 19, 2010, from her position with the United States Department of Agriculture as the Georgia State Director of Rural Development, “which paid her approximately \$113,000 per year.” Complaint (“Compl.”) ¶ 86.

14. Sherrod further alleges that “beyond the financial damage,” she has also suffered “irreparable reputational and career damage,” Compl. ¶ 87, has been forced to take extra security precautions, and has suffered severe emotional distress, sleep disruptions, and “increasingly severe back pain.” Compl. ¶ 89.

15. Sherrod requests that the Court award her “[c]ompensatory and consequential damages for detraction from good name and reputation, for mental anguish, distress, and humiliation, and for injuries to [her] occupation,” Compl. ¶ 39, and punitive damages and

attorneys' fees "beyond and in excess of those damages necessary to compensate [her] for injuries resulting from Defendants' conduct." Compl. ¶ 109.

16. Sherrod further seeks additional, substantial non-economic damages for future reputational and career damage, mental anguish, distress, humiliation, and increased security expenses. These non-economic damages appear to exceed the jurisdictional amount by themselves.

17. Sherrod also seeks punitive damages, which are properly considered as part of the amount in controversy for jurisdictional purposes. *Thomas v. Nat'l Legal Prof. Assocs.*, 594 F. Supp. 2d 31, 33 (D.D.C. 2009); *G. Keys PC/Logis NP v. Pope*, 630 F. Supp. 2d 13, 17 (D.D.C. 2009). The economic, non-economic, and punitive damages in combination clearly exceed the jurisdictional amount.

18. Accordingly, from the face of the Complaint, Sherrod claims and is seeking economic and non-economic compensatory, special, and punitive damages, and attorneys' fees, well in excess of \$75,000. This Court has jurisdiction over this matter under 28 U.S.C. § 1332.

19. Because citizenship is diverse and the amount in controversy exceeds \$75,000, this Court has original jurisdiction under 28 U.S.C. § 1332(a).

20. Because this Court has original jurisdiction over this case under 28 U.S.C. § 1332(a), Breitbart and O'Connor may, and hereby do, remove this case to this Court under 28 U.S.C. § 1441.

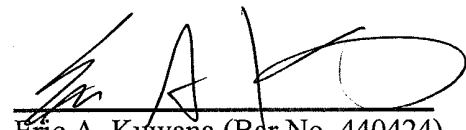
21. Breitbart and O'Connor reserve the right to assert all applicable claims and defenses, including service of process and jurisdictional defenses, in responding to the Sherrod's Complaint.

WHEREFORE, NOTICE IS HEREBY GIVEN that the case of *Shirley Sherrod v. Andrew Breitbart, Larry O'Connor, and John Doe*, Civil Action No. 0001157-11, currently pending in the Superior Court of the District Columbia, is removed to the United States District Court for the District of Columbia.

Dated: March 4, 2011

Respectfully submitted,

For Defendant Andrew Breitbart:

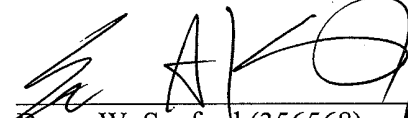

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CERTIFICATE OF SERVICE

I certify that on this 4th day of March, 2011, I caused a copy of the foregoing Notice of Removal, with its accompanying exhibits, to be served, by United States mail, first class postage prepaid, upon the following counsel of record for the Plaintiff:

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