IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JORGE L. ARREDONDO, Plaintiff, v. GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT and THE BOARD OF TRUSTEES OF GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT, Defendants.	§ § § § § § § § § § §	CIVIL ACTION NO. _____

DEFENDANTS GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT AND THE GRAND PRAIRIE INDEPENDENT SCHOOL DISTRICT BOARD OF TRUSTEES' NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendants Grand Prairie Independent School and the Grand Prairie Independent School Board of Trustees (collectively, "Grand Prairie ISD" or the "District") file this Notice of Removal of the action from the 68th Judicial District Court, Dallas County, Texas, Cause No. DC-24-18108, styled *Jorge L. Arredondo v. Grand Prairie Independent School District and The Board of Trustees of Grand Prairie Independent School District*, to the United States District Court for the Northern District of Texas, Dallas Division, under 28 U.S.C. §§ 1331, 1441, and 1446. In support of this Notice, Grand Prairie ISD states as follows:

I.
FILINGS IN THE STATE COURT

In accordance with 28 U.S.C. § 1446(a) and Northern District Local Rule 81.1, all state court filings to date have been indexed and attached hereto as **Exhibit A**.

II.
BASIS FOR REMOVAL OF ACTION

1. Plaintiff is Jorge L. Arredondo. Defendants are Grand Prairie Independent School District and The Grand Prairie Independent School District Board of Trustees (collectively, "Grand Prairie ISD" or the "District").[1]

2. On October 14, 2024, Dr. Arredondo commenced this action against the District filing *Plaintiff's Verified Original Petition and Application for Temporary Restraining Order and Temporary Injunction and Motion for Expedited Discovery* (the "Petition") in the 68th Judicial District Court, Dallas County, Texas (the "State Court Lawsuit"). *See* Ex. A-2. That same day, he obtained an ex-parte temporary restraining order ("TRO") against the District. **Ex. A-4**.

3. Grand Prairie, through its then-counsel, received a copy of the Petition and ex-parte TRO on October 14, 2024 and counsel accepted service on the District's behalf. On October 16, 2024, Grand Prairie ISD filed its *Plea to the Jurisdiction, Emergency Motion to Dissolve Temporary Restraining Order, Emergency Motion to Dissolve Expedited Discovery Order, and Request for Attorneys' Fees*. **Ex. A-13**. On October 17, 2024, the District filed an *Amended Plea to the Jurisdiction, Emergency Motion to Dissolve Temporary Restraining Order, and Emergency Motion to Dissolve Expedited Discovery Order*. **Ex. A-17**. Grand Prairie ISD filed its *Original Answer* to the Petition on November 1, 2024. **Ex. A-29**.

4. As alleged in the Petition, Dr. Arredondo entered into an employment contract with the District on June 24, 2024 (the "Employment Contract"). **Ex. A-2**, p.3. The Employment Contract is governed by Chapter 21 of the Texas Education Code ("Chapter 21"). *Id.* The District placed Dr. Arredondo on administrative leave with pay on September 4, 2024, while it investigated

[1] Grand Prairie ISD and its Board, in the context of parties to a lawsuit, "are one and the same entity." *See New Caney Indep. Sch. Dist. v. Burnham Autocountry, Inc.*, 960 S.W.2d 957, 960 (Tex. App.—Texarkana 1998, no pet.).

allegations of misconduct by Dr. Arredondo. *Id.* p. 6. On October 8, 2024, the Board of Trustees, through counsel, informed Dr. Arredondo that it intended to move forward with considering whether to *propose* his termination under the Chapter 21 termination process on October 17, 2024. *Id.*, p.7.

5. To thwart the District from following the Chapter 21 process for posting and considering whether to propose Dr. Arredondo's termination—which would entitle him to all the process to which he is entitled under his Employment Contract and state law—Dr. Arredondo filed the Petition and obtained the ex-parte TRO in the State Court Lawsuit on October 14, 2024. The TRO was originally set to expire on October 28, 2024, which was the date the State Court set to hear Dr. Arredondo's *Application for Temporary Injunction*. *See* **Ex. A-4**.[2] The State Court, however, moved the hearing on Dr. Arredondo's *Application for Temporary Injunction* to November 5, 2024 and, then, extended the TRO to November 19, 2024, and reset the hearing on Dr. Arredondo's *Application for Temporary Injunction* for November 15, 2024. **Ex. A-33**.

6. The Petition specifically lists three "Causes of Action": (1) breach of contract; (2) violation of due process under the Texas Constitution; and (3) defamation. **Ex. A-2**, pp. 9–11. Although not listed among the enumerated "Causes of Action," the Petition also asserts that Dr. Arredondo "has a probable right to relief on his claim[ ] for … violation[s] of [42 U.S.C.] Section 1981." **Ex. A-2**, p. 17. Section 1981 prohibits discrimination on the basis of race, color, and ethnicity when making and enforcing contracts, including employment contracts. 42 U.S.C. § 1981. Throughout the Petition, Dr. Arredondo complains of alleged race and national origin

[2] The October 14, 2024, TRO contained a scrivener's error that scheduled a hearing on Dr. Arredondo's Application for Temporary Injunction on "12/28/2024," and indicated that the TRO would expire on that date. Ex. A-4, p. 5. The State Court later clarified that the TRO would expire on, and the temporary injunction hearing was set for October 28, not December 28.

discrimination against him by the District in connection with the District's purported efforts to propose termination of his Employment Contract. **Ex. A-2**, pp. 6, 11, 13. And the only mechanism cited in the Petition to support such a discrimination claim is 42 U.S.C. § 1981.

7. Under 28 U.S.C. § 1331, a federal district court "shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." Under 28 U.S.C. § 1441, removal of a case from state court to federal court is appropriate when a plaintiff's complaint makes a claim "arising under" federal law. Because the Petition on its face asserts that Dr. Arredondo has a right to relief based on his claim for alleged violations of 42 U.S.C. § 1981, Grand Prairie removes this case based on federal question jurisdiction under 28 U.S.C. §§ 1331, 1441(a), and 1446.

8. Additionally, although styled as a breach of contract claim and a claim that the District violated his due process rights under the Texas Constitution, Dr. Arredondo's most recent pleading in the State Court Lawsuit now clarifies that these two causes of action are in fact federal in nature and removable under Section 1446(b)(3) because they necessarily depend on resolution of a substantial question of federal law.

9. In support of Dr. Arredondo's breach of contract and due process claims, the Petition cites a provision of the Employment Contract that states that Grand Prairie may dismiss Dr. Arredondo for good cause, but that in doing so, "the Superintendent shall be provided all procedural and substantive rights as set forth in the *Board's policies* and applicable state *and federal* law." **Ex. A-2**, p. 5 (emphasis added). The Petition further alleges that if Grand Prairie is allowed to move forward with proposing Dr. Arredondo's termination, "he will be deprived of his property interest in his employment contract and liberty interest in his reputation and career without due process." **Ex. A-2**, p. 7. Indeed, Dr. Arredondo's primary argument in the Petition is

that the District is improperly moving toward possible termination of his Employment Contract by failing to provide him with the procedural and substantive rights owed him under the Employment Contract, the Board's policies, and state and federal law. The Petition, however, does not specify what Board policies or federal law Dr. Arredondo relies on in support of this argument.

10. The District responded to this argument and the allegations in the Petition in its November 4, 2024, *Response to Jorge L. Arredondo's Application for Temporary Injunction* arguing that Dr. Arredondo's pre-proposed termination breach of contract claim and due process claim were not ripe under state law because the Board of Trustees has not even yet voted to *propose* termination of his contract. **Ex. A-30**, pp. 23–40, 43, 53. The District further argued that the State Court lacked jurisdiction over the pre-proposed termination breach of contract and due process claims because Dr. Arredondo had not yet exhausted his administrative remedies by proceeding either through the administrative requirements under Texas Education Code § 7.057(a) or the Chapter 21 process governing any proposed termination of his Employment Contract. *Id.* Additionally, the District argued that Dr. Arredondo did not have a protected interest implicated by his placement on administrative leave or property or other protected interest in an investigation or particular type of investigation under the Texas Constitution. *Id.* pp. 40–52. The District further argued that any property interest arises from state law or other independent source. *Id.*, pp. 41–42 (citing *Bd. of Regents of State Colls. v. Roth*, 408 U.S. 564, 577 (1972)).

11. On November 8, 2024, Dr. Arredondo responded to these arguments in his *Reply in Support of his Application for Temporary Injunction* ("TI Reply") and clarified, for the first time, that the *federal law* on which his pre-proposed termination breach of contract and due process claims in fact turns is Title IX of the Education Amendments of 1972, its supporting regulations, and the District's Board policies pertaining to investigations of individuals accused of certain sex-

based misconduct under Title IX. **Ex. A-36**, pp. 7, 10–12. In the TI Reply, Dr. Arredondo now clarifies that he believes Title IX, its regulations, and the District's Board policies implementing Title IX, allegedly afford him pre-proposed termination contractual and property rights under Title IX grievance procedures that the District has allegedly not provided him, in purported violation of his Employment Contract and due process rights. **Ex. A-36**, pp. 7, 10–12. Consequently, Dr. Arredondo's TI Reply now demonstrates that resolution of his breach of contract and due process claims necessarily and substantially depend on the application and interpretation of Title IX, its supporting regulations, and the District's Board policies implementing Title IX. This case then is properly removed to federal court. *See Franchise Tax Bd. v. Constr. Laborers Vacation Tr.*, 463 U.S. 1, 9 (1983). (holding that a case pleading only state law claims may arise under federal law "where the vindication of a right under state law necessarily turn[s] on some construction of federal law"); *Grable & Sons Metal Products, Inc. v. Darue Engineering & Mfg.*, 545 U.S. 308, 314 (2005) (holding that federal question jurisdiction exists when it is "plain that a controversy respecting the construction and effect of the [federal] laws is involved and is sufficiently real and substantial").

12. According to Dr. Arredondo's TI Reply, whether Title IX and its grievance procedures apply under the circumstances and afford Dr. Arredondo any procedural or substantive rights with respect to efforts to potentially propose his termination is an essential element of his breach of contract and due process claims. The interpretation and application of Title IX to Chapter 21 employment contracts and property interests such as those alleged by Dr. Arredondo is in dispute, is potentially dispositive of Dr. Arredondo's claims, would be controlling in numerous other cases, and is therefore an important issue of federal law and belongs and federal court. *See Grable*, 545 U.S. at 312–13, 319–20. As a result, removal is appropriate based on the federal issues underpinning Dr. Arredondo's state-law claims as outlined in his TI Reply.

13. Under 28 U.S.C. § 1446(b)(3), if the case stated by the initial pleading is not removable, "a notice of removal may be filed within thirty days after receipt by the defendant through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable."

14. In determining whether federal-question jurisdiction is present, the Supreme Court follows the "well-pleaded complaint rule," which looks to whether "a federal question is presented on the face of the plaintiff's properly pleaded complaint." *Caterpillar v. Williams*, 482 U.S. 386, 392 (1987). A federal question exists in cases "in which a well-pleaded complaint establishes either that federal law creates the cause of action or that the plaintiff's right to relief necessarily depends on resolution of a substantial question of federal law." *Franchise Tax Bd.*, 463 U.S. at 27–28. In making determinations under the well-pleaded complaint rule, "a plaintiff may not defeat removal by omitting to plead necessary federal questions in a complaint." *Id.* at 22.

15. Due to the "well-pleaded complaint rule," the Section 1446(b)(3) analysis is different when courts look to "other paper" to clarify whether *federal question* jurisdiction has been established.[3] *Nieto v. Lantana Cmty. Ass'n Inc.*, No. 4:19-CV-00239, 2019 WL 3502794, at *5–6 (E.D. Tex. Aug. 1, 2019). "In most cases, when courts look to 'other papers' to ascertain removability, courts are clarifying that diversity jurisdiction has been established." *Eggert v. Britton*, 223 F. App'x 394, 397 (5th Cir. 2007). The Fifth Circuit acknowledged in *Eggert*, however, that "[u]nder limited circumstances, courts have looked to 'other paper' to establish federal question jurisdiction, such as to clarify that a plaintiff's state law claim is one that would

[3] The TI Reply, voluntarily filed by Dr. Arredondo, constitutes an "other paper" for the purposes of applying Section 1446(b)(3). *See Strikes for Kids v. Nat'l Football League*, 3:17-CV-0018-B, 2017 WL 2265534, at *3 (N.D. Tex. May 24, 2017) ("The federal courts have given the reference to 'other paper' an expansive construction and have included a wide array of documents within its scope."); *see also Addo v. Globe Life & Acc. Ins. Co.*, 230 F.3d 759, 762 (5th Cir. 2000) (holding that an "other paper" "must result from the voluntary act of a plaintiff").

be preempted by federal law." *Id.* In those cases, the "other paper may only 'clarify the federal nature of an *existing* claim [in the well-pleaded complaint], and not relate to a putative claim that has not yet been pled.'" *Nieto*, 2019 WL 3502794, at *5–6 (emphasis added) (citing *O'Keefe v. State Farm Fire & Cas. Co.*, CIV.1:08CV600HSOLRA, 2009 WL 95039, at *3 (S.D. Miss. Jan. 13, 2009) (citing *Eggert*, 223 F. App'x. 397–98; *Trotter v. Steadman Motors, Inc.*, 47 F. Supp. 2d 791, 792 (S.D. Miss. 1999)). "In other words, for removal based on 'other paper' to be proper and consistent with the well-pleaded complaint rule, the 'other paper' cannot be used to interject a new federal claim, but instead must be used to clarify that the plaintiff's existing claims are federal in nature." *Strikes for Kids*, 2017 WL 2265534, at *3 (citing *Eggert*, 223 F. App'x 397–98); *see also Cryer v. Atmos Energy Corp.*, No. 3:07-CV-1675-P, 2007 WL 9717689 (N.D. Tex. Nov. 30, 2007) ("Here, Plaintiffs[']s claims for negligence have not been changed by introducing to Atmos the factual basis underlying the claims. Rather, the [other papers] merely serve to clarify the nature of the claims as they always existed.").

16. Under the foregoing case law removal is proper for two reasons: (1) the Petition itself pleads a federal cause of action that Dr. Arredondo "has a probable right to relief on his claim[ ] for … violation of Section 1981"; and (2) under Section 1446(b)(3), the "other paper" in question—the TI Reply—now clarifies that Dr. Arredondo's pre-proposed termination breach of contract and due process claims are federal in nature, *i.e.*, they turn on the application and interpretation of Title IX and its supporting regulation as they pertain to the alleged "procedural and substantive [contractual] rights" Dr. Arredondo claims the District owed him and failed to provide him pre-proposed termination. **Ex. A-2**, p. 5. Consequently, because the Petition asserts a claim arising under federal law (42 U.S.C. § 1981) and the TI Reply now makes clear that the

character of Dr. Arredondo's purported pre-proposed termination breach of contract claims and due process claims are at least in part in Title IX and not in state law, removal is appropriate.

17. Several cases support this conclusion. For example, in *Untermyer v. College of Lake County*, the Seventh Circuit affirmed removal when a student plaintiff brought a breach of contract claim against his college for allegedly failing to accommodate his disability based on a contract allegedly created from the college's course catalog. *Untermyer v. Coll. of Lake County*, 284 F. App'x 328, 329 (7th Cir. 2008). There, the plaintiff's complaint referenced a portion of the course catalog that stated that the college's programs and facilities complied with Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. *Id.* The Seventh Circuit acknowledged that it was doubtful that the course catalog references to these Acts created an independent contract, but affirmed the district court's determination that the basis of any breach of contract claim referencing the Rehabilitation Act and the ADA would "still arise under federal law … ." *See id.* at 330–31.

18. *Strikes for Kids* likewise supports removal. In that case, the plaintiff asserted a fraud claim against the National Football League in state court. 2017 WL 2265534, at *1. Plaintiff claimed that it suffered damages when the NFL forced it to move a charity bowling event to a different location based on representations that holding the event at a bowling alley that is part of a casino complex in Las Vegas would violate the NFL's gambling policy if NFL players attended. *Id.* The theory of plaintiff's fraud claim "shifted throughout the litigation," until more than seven months after the lawsuit was filed, the plaintiff asserted for the first time in a discovery hearing that the NFL's representations were false because the NFL lacked authority under its Collective Bargaining Agreement ("CBA") to enforce its gambling policy against its players. *Id.* at *2. Based on this new fraud theory, the NFL removed the case arguing that the plaintiff's fraud claim would

now require interpretation of the NFL's authority under its CBA with its players' union, meaning plaintiff's fraud claim would be preempted by the Labor Management Relations Act. *Id.* The District Court affirmed removal.

19. *Nayyar v. Mt. Carmel Health Sys.* presents another persuasive example supporting removal. In *Nayyar*, the plaintiff asserted state-law employment discrimination claims. No. 2:12-CV-00189, 2012 WL 3929830, *1 (S.D. Ohio Sept. 10, 2012). There, the District Court upheld removal because, *inter alia*: (1) the claims "involved the interpretation of Title VII, the nation's primary antidiscrimination statute"; (2) "the decision as to whether a Title VII violation occurred could resolve the case"; "a decision as to the Title VII questions would control other cases." *Id.* at *3.

20. Like in *Untermyer*, *Strikes for Kids*, and *Nayyar*, the TI Reply now makes clear that Dr. Arredondo's pre-proposed termination breach of contract and due process claims require the Court to apply and interpret federal law (namely Title IX) in order to make a determination as to whether the District breached the Employment Contract or denied Dr. Arredondo due process. **Ex. A-36**, pp. 7, 10–12. This means that Dr. Arredondo's breach of contract and due process claims "necessarily depend[ ] on resolution of a substantial question of federal law," which supports removal to federal court. *Franchise Tax Bd.*, 463 U.S. at 27–28.

21. In conclusion, the Petition asserts a claim arising under federal law (42 U.S.C. § 1981), which supports removal. Additionally, because Dr. Arredondo has now clarified that resolution of the existing breach of contract and due process claims in the Petition necessarily depend on resolution of substantial questions of federal law (*i.e.*, what substantive and procedural protections does Title IX afford Chapter 21 contract-holders with respect to pre-proposed termination actions and do those protections give rise to a protected property interest under the

Constitution), Grand Prairie removes this case on the basis of federal question jurisdiction under 28 U.S.C. §§ 1331, 1441(a), and 1446(b)(3).

22. Grand Prairie ISD timely files this Notice of Removal within the thirty (30) days of its receipt of the Petition alleging a claim under 42 U.S.C. § 1981, as required by 28 U.S.C. § 1446(b) and two business days after it received the "other paper" clarifying that Dr. Arredondo's breach of contract and due course of law claims turn on the interpretation and application of federal law and regulations pertaining to Title IX. 28 U.S.C. § 1446(b)(3).

23. Venue is proper in this district under 28 U.S.C. § 1441(a) because the state court where the suit is pending is located in this district.

24. Grand Prairie ISD will promptly file a copy of this Notice of Removal, as an attachment to a Notice of Filing Notice of Removal, with the clerk of the state court where the action has been pending.

III.
STATE COURT FILINGS

25. In accordance with 28 U.S.C. § 1446(a) and Local Rule 81.1, copies of the following items are attached to this Notice of Removal:

A. An index of all documents that clearly identifies each document and indicates the date the document was filed in state court (*See* **Exhibit A**);

B. A copy of the docket sheet in the state court action (*See* **Exhibit A-1**);

C. Each document filed in the state court action, except discovery material (*See* **Exhibits A-2 – A-36)**; and

D. A separately signed certificate of interested persons that complies with Local Rules 3.1(c) or 3.2(e).

IV.
CONCLUSION

26. Nothing in this Notice shall be interpreted as a waiver or relinquishment of any of Grand Prairie ISD's rights to assert any defenses or immunities to Dr. Arredondo's causes of action or grounds for removal.

27. If any question arises as to the propriety of the removal of this action, the District requests the opportunity to brief any disputed issues and to present oral argument in support of its position that this case is properly removable.

28. Because Dr. Arredondo's originally-asserted claims in his Petition raise a claim under federal law as well as necessarily depend on resolution of a substantial question of federal law, the District asks the Court to accept removal of this lawsuit.

Respectfully submitted,

/s/ Carlos G. Lopez

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing pleading has been served upon all parties via the Court's e-filing system, on November 12, 2024.

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