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Attorney for Appellees-Petitioners

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

ANCHORAGE SCHOOL DISTRICT,)
)
 Appellant-Respondent,)
)
 v.)
)
 M.G., and his parents Betsy)
 and Brian G.)
)
 Appellees-Petitioners.)
 _____)

Case No. 3:17-cv-_____
Superior Court Case No: 3AN-17-07583CI

APPELLEES' NOTICE OF REMOVAL

Appellees-Petitioners M.G., and his parents Betsy and Brian G., hereby provide notice of removal of case number 3AN-17-07583CI from the Superior Court for the State of Alaska, Third Judicial District at Anchorage, to the United States District Court, District of Alaska, pursuant to 28 U.S.C. 1331, 1441, and 1446, and as grounds for removal state:

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STATEMENT OF THE CASE

1. M.G. experiences a number of significant disabilities, including severe nonverbal autism, severe intellectual disability and severe visual impairment. As a result, he is eligible for and receives special education and related services under the Individuals with Disabilities Education Act, 20 U.S.C. 1400 *et seq.* On May 18, 2016, M.G.'s Individualized Education Program (IEP) Team determined that he requires a residential placement as the least restrictive environment because of the nature and severity of his disabilities. Following this determination, however, the Anchorage School District ("ASD") failed to implement his IEP by selecting a safe and appropriate residential placement for him. As a result, on January 17, 2017, his parents requested a special education due process hearing against ASD alleging that the District had failed to implement M.G.'s IEP and timely provide him with a free appropriate public education. His parents also sought reimbursement for the costs associated with unilaterally placing M.G. in an appropriate residential placement on their own (which they had done via written notice dated October 18, 2016) and an order requiring ASD to pay for his continued placement there. The hearing took place on April 13 and 14, April 17-21, and April 24- 26, 2017.

2. On May 30, 2017, Hearing Officer Sheila Gallagher, of the State of Alaska Department of Education and Early Development ("DEED"), issued a decision in DEED Case No. HR 17-09, finding that ASD had not properly implemented the IEP. In that decision, Hearing Officer Gallagher mandated that ASD pay for M.G. to attend Perkins School for the Blind in Watertown, MA, for the period May 1, 2017, through February 17, 2018. In addition, she ordered that ASD reimburse M.G.'s parents for any deposits they have paid for that time period to whatever the last day of school is during the spring break in February as well as ordering that M.G. parents be entitled to reimbursement for three round trips between Perkins and Anchorage to cover the

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reasonable cost of transporting the student to Perkins, airfare, and related expenses. The decision was based on the Hearing Officer's interpretation of the Individuals with Disabilities Education Act (IDEA), a federal statute.

3. On June 30, 2017, Appellant-Respondent Anchorage School District filed a Notice of Appeal of Final Agency Decision styled "Anchorage School District v. M.G., a minor and his parents Betsy and Brian Goudreau," case number 3AN-17-07583CI ("the State Court action"). The points on appeal are listed in the Statement of Points on Appeal. A copy of the Notice of Appeal of Final Agency Decision and a copy of the Statement of Points on Appeal are attached.

4. Service of the Notice of Appeal of Final Agency Decision by U.S. mail was completed on July 3, 2017. A copy of the Appellant-Respondent's affidavit of service is attached.

5. The relief sought by the Appellant-Respondent is a reversal of the Hearing Officer's Decision providing for M.G.'s education to be at the Perkins School for the Blind.

JURISDICTION

6. Pursuant to 28 U.S.C. § 1331, "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States. See Exxon Mobil Corp. v. Allapattah Services, Inc., 545 U.S. 546, 563 (2005). This court has jurisdiction under 28 U.S.C. §§ 1331 and 1441 because this is a civil action in which the causes of action alleged in the State Court action Complaint arise under the laws of the United States, primarily the IDEA.

PROCEDURAL REQUIRMENTS FOR REMOVAL HAVE BEEN SATISFIED

7. The Notice of Removal has been filed within 30 days of the date service was accomplished, which Appellant-Respondent states was June 30, 2017. Removal is timely. 28 U.S.C. § 1446(b).

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8. A motion to expedite the State Court action was filed in state court on Thursday, July 6, 2017, and a state court judge has ordered Appellees-Petitioners to respond by Thursday, July 13, 2017. Appellees-Petitioners will file their response in this Court tomorrow, Thursday, and lodge copies of Appellant-Respondent's motion to expedite and supporting affidavit. True and correct copies of all other pleadings and documents filed in the State Court action will be filed when requested by this Court.

9. Written Notice of the filing of this Notice will be promptly given to all adverse parties.

10. A Notice to State Court of Removal will be filed today in the Superior Court for the State of Alaska, Third Judicial District at Anchorage, case number 3AN-17-07583CI, on behalf of the Appellees-Petitioners.

11. Venue is proper because the United States District Court, District of Alaska, is the corresponding federal judicial district for the Superior Court of the State of Alaska, Third Judicial District at Anchorage, where the State Court action is filed.

Dated: July 12, 2017

By: /s/ Jacob Kammermeyer
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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day
of July, 2017, a true and correct
copy of the foregoing was served
by U.S. Mail, postage prepaid,
upon the following:

Matthew Singer
Courtesy copy emailed to matt.singer@hklaw.com
Jessica Brown
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Sheila Gallagher, Hearing Officer
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/s/ Mark Regan
Mark Regan