

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

STEVEN DEHART,
Plaintiff,

vs.

Case No. 19-CV- 4022

BOARD OF COUNTY COMMISSIONERS OF
THE COUNTY OF RILEY, KANSAS
Defendant.

Notice of Removal

Defendant submits this Notice of Removal from the 21st Judicial District, the District Court of Riley County, Kansas to the United States District Court for the District of Kansas pursuant to 28 U.S.C. §§1441 and 1446 and D. Kan. Rule 81.1.

1. Plaintiff filed a petition in the District Court of Riley County, Kansas against the Board of County Commissioners of the County of Riley, Kansas on February 19, 2019.

2. A summons and copy of the petition were served upon the County Clerk on March 4, 2019. This notice is filed within thirty days after service of the summons and petition.

3. The petition asserts a claim that plaintiff was dismissed from employment in retaliation for exercising rights under the First Amendment of the United States Constitution. The allegations raise claims under 42 U.S.C. § 1983 for alleged violations under the First Amendment, specifically a claim of the deprivation of the right to free speech.

4. The federal courts have original jurisdiction over all civil actions arising under the constitution, laws, or treaties of the United States. 28 U.S.C. § 1331. This action falls within the original jurisdiction of the federal court. Removal is therefore appropriate under 28 U.S.C. § 1441(a).

5. In accordance with 28 U.S.C. § 1446(a) of copies the process and pleadings served upon the County are attached as Appendix A.

6. No orders have been served upon defendants in the action.

7. A copy of the written notice served upon the plaintiff this date that will be filed in state court is attached as Appendix B.

Fisher, Patterson, Saylor & Smith, LLP
3550 S.W. 5th Street
Topeka, Kansas 66606
Tel: (785) 232-7761 | Fax: (785) 232-6604
dcooper@fisherpatterson.com
llaushman@fisherpatterson.com

s/dcooper@fisherpatterson.com

David R. Cooper #16690

Lauren E. Laushman #25776

Attorneys for Defendant

Certificate of Service

I hereby certify that on the 27th day of March, 2019, I caused the foregoing document to be electronically submitted to the court as captioned above for filing. The same will be deemed filed as indicated on the court's electronic file stamp. I further certify that a true and correct copy was mailed to *pro se* plaintiff on the date filed with the court addressed as follows: No one.

/s/David R. Cooper

ELECTRONICALLY FILED
2019 Feb 19 PM 2:49
CLERK OF THE RILEY COUNTY DISTRICT COURT
CASE NUMBER: 2019-CV-000038

SLOAN, EISENBARTH, GLASSMAN,
MCENTIRE & JARBOE, L.L.C.
534 S. Kansas Avenue, Suite 1000
Topeka, KS 66603-3881
Tel: (785) 357-6311
Fax: (785) 357-0152
slanterm@slanlawfirm.com

IN THE DISTRICT COURT OF RILEY COUNTY

STEVEN DEHART,

Plaintiff,

vs.

COUNTY BOARD OF COMMISSIONERS
OF RILEY COUNTY

Defendant.

Case No. _____

Division No. _____

Pursuant to Chapter 60

PETITION

COMES NOW the plaintiff, Steven DeHart, by and through his attorneys, Stephen D. Lanterman and Ryan M. Brungardt, of the law firm of SLOAN, EISENBARTH, GLASSMAN, MCENTIRE & JARBOE, LLC, and for his cause of action against the defendant, states and alleges as follows:

JURISDICTION AND VENUE

1. The plaintiff, Steven DeHart, is an individual who lives and resides in Olsburg, Riley County, Kansas.
2. Defendant, the County Board of Commissioners of Riley County, is a governmental body, organized and operating pursuant to the laws of the State of Kansas, located in Riley County, Kansas.
3. Venue is properly in this court pursuant to K.S.A. 60-604.

4. Pursuant to K.S.A. 60-304(d)(1), Defendant may be served with process by serving the county clerk, Rich Vargo, at 110 Courthouse Plaza, 1st Floor, Room B118, Manhattan, Kansas 66502.

FACTS

5. Plaintiff worked as a Nationally Registered Environmental Health Specialist for Defendant, Riley County.

6. As part of his job responsibilities, Plaintiff ensured regulatory compliance with Federal, State, and Riley County environmental regulations.

7. Plaintiff carried out the following duties including, but not limited to: permitting and inspecting wastewater systems and domestic water wells, verifying plats, environmental evaluations, consulting on the Riley County activated sludge wastewater plant, training and licensing septic installers and haulers, and investigating and approving the environmental section for building permits.

8. In the course of performing work for Defendant, Plaintiff uncovered various violations of rules, regulations, or the law that were brought to the attention of his supervisor, office staff, county counselors, County Commissioners, and other regulatory agencies.

9. On several occasions Plaintiff was directed to not report environmental violations to the required agencies for correction, out of fear that it would reflect poorly on the county.

10. Plaintiff drew the ire of the County Commissioners when he reported that Commissioner Ron Wells had a private sewer hookup at his residence that allowed for service to be made at no cost to Mr. Wells. This resulted in the events leading to this litigation.

11. Mr. Wells constructed an apartment on his mother's property without the required building permit for personal use. To bring his property into compliance, he was required to obtain the necessary permit, which needed the Plaintiff's signature for approval.

12. Plaintiff discovered Mr. Wells did not have a valid septic permit, and raised concerns about the validity of the septic hookup in 2016 at the time of the issuance of the permit, but was advised by County Counselor, Clancy Holeman, that resistance to the hookup would jeopardize Plaintiff's employment.

13. Plaintiff's direct supervisor, Monty Wedel, applied pressure to Plaintiff by stating that this was not worth risking his career over.

14. When no administrators expressed a desire to hold Mr. Wells responsible for the significant costs attached to the allegedly "free" service, Plaintiff signed the permit.

15. After the signing of the permit, Plaintiff continued to speak out about Mr. Wells' illegal sewer hookup and the improper use of power as a commissioner in pushing through the permit.

16. As a result of the pressure brought by Plaintiff, Mr. Wells faced severe political pressure, as indicated in the Topeka Capital Journal Article, "A secret deal: Riley County commissioner defends free connection to Manhattan city sewer system" dated December 2, 2017.

17. Mr. Wells is quoted in the article, and recorded on video, expressing irritation that the free sewer hookup had been brought to light.

18. Mr. Wells continues to claim a valid free sewer hookup stating that it was "a done deal" and that "there were a lot of good-ol' boy handshakes going on."

19. Plaintiff worked for 13 years as a registered environmental health specialist for Defendant and worked in the field for a majority of his life.

20. Plaintiff's work record for Defendant shows exemplary work, with minimal complaints throughout his career from both the citizens he interacted with and supervisor reviews.

21. Plaintiff is nationally recognized and awarded for his quality of work and contributions to the field of environmental health.

22. Defendant has blemished Plaintiff's work record by terminating him on August 18, 2017 without just cause and in retaliation for exercising his right of free speech and for whistle-blowing.

23. Defendant has served as a whistle-blower by reporting his employer, the Defendant, and its employee, the County Commissioner, for their wrongdoing in both the illegal sewer line hookup, and their environmental violations.

24. Furthermore, Defendant acted as a private employee speaking on matters of public concern in regards to the seemingly illegal conduct of an elected official.

COUNT I
WRONGFUL TERMINATION FOR WHISTLE-BLOWING

25. Plaintiff incorporates by reference paragraphs 1 through 24 as though fully set forth herein.

26. Plaintiff disclosed information regarding violations of environmental regulations committed by Defendant and illegal actions by Defendant's employee, Mr. Wells.

27. This disclosure was part of his duty within his job capacity, where he was a whistle-blower reporting wrongdoing of his employer.

28. Plaintiff was terminated because of his good faith reporting of serious infractions of the law, and his disclosure of information that may have negatively impacted the County Commission in their individual and professional capacities.

29. Plaintiff was advised of his termination from his position with Riley County on August 18, 2017.

30. Plaintiff requested an appeal of his termination to the County Commission but has not been granted a hearing.

31. Plaintiff has suffered damages of economic loss in lost wages in addition to other non-economic damages.

32. Wherefore, Plaintiff prays for judgment against the Defendant for damages in excess of \$75,000, consisting of non-economic and economic damages, and for such other and further relief that the Court deems proper.

COUNT II
WRONGFUL TERMINATION FOR EXERCISING
FIRST AMENDMENT RIGHTS

33. Plaintiff incorporates by reference paragraphs 1 through 31 as though fully set forth herein.

34. The First Amendment of the United States Constitution guarantees Plaintiff the right to freedom of speech. Plaintiff's right to free speech is further protected by 42 U.S.C. § 1983, which imposes liability on any person acting under color of state law who deprives Plaintiff of his right of free speech.

35. Plaintiff exercised his right of free speech by speaking out on matters of public concern. Specifically, Plaintiff disclosed information regarding seemingly illegal actions by Defendant's employee, Mr. Wells.

36. Furthermore, Plaintiff was acting as a member of the public speaking on a matter of public concern outside the scope of his official job duties.

37. Defendant, acting under color of state law, violated Plaintiff's First Amendment right to free speech by terminating him for exercising his right.

38. Defendant's interests in promoting the efficiency of the public service do not outweigh Plaintiff's interests in free speech.

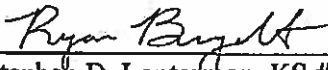
39. Plaintiff's free speech was a motivating factor in Defendant's decision to terminate Plaintiff.

40. Plaintiff has suffered damages of economic loss in lost wages in addition to other non-economic damages.

41. WHEREFORE, Plaintiff prays for judgment against the Defendant for damages in excess of \$75,000.00, consisting of compensatory and economic damages, litigation expenses, including attorney fees, and for such other and further relief that the Court deems proper.

Respectfully submitted,

SLOAN, EISENBARTH, GLASSMAN,
McENTIRE & JARBOE, L.L.C.
534 S. Kansas Avenue, Suite 1000
Topeka, KS 66603
Office: (785) 357-6311
Fax: (785) 357-0152


BY: 
Stephen D. Lanterman, KS #18844
slanterm@sloanlawfirm.com
Ryan M. Brungardt, KS # 27600
rbrungardt@sloanlawfirm.com
ATTORNEYS FOR PLAINTIFF

REQUEST FOR TRIAL BY JURY

Pursuant to K.S.A. 60-238, the plaintiff requests a trial by jury on all claims triable to a jury.

Respectfully submitted,

SLOAN, EISENBARTH, GLASSMAN,
McENTIRE & JARBOE, L.L.C.
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Topeka, KS 66603
Office: (785) 357-6311
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BY: 
Stephen D. Lanterman, KS #18844
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Ryan M. Brungardt, KS # 27600
rbrungardt@sloanlawfirm.com
ATTORNEYS FOR PLAINTIFF

cc: Bruce
clancy
Cindy K

ELECTRONICALLY FILED
2019 Feb 28 AM 9:04
CLERK OF THE RILEY COUNTY DISTRICT COURT
CASE NUMBER: 2019-CV-000038

2019 MAR -4 PM 2:57
COUNTY CLERK
RILEY COUNTY, KANSAS

FILED

Steven D DeHart

vs.

County Board of Commissioners of Riley County

SUMMONS

To the above-named Defendant/Respondent:

County Board of Commissioners of Riley County
Rich Vargo, County Clerk
110 Courthouse Plaza, 1st Floor
Room B118
Manhattan, KS 66502

You are hereby notified that an action has been commenced against you in this court. You are required to file your answer or motion under K.S.A. 60-212, and amendments thereto, to the petition with the court and to serve a copy upon:

RYAN M BRUNGARDT
534 S. KANSAS AVE
STE 1000
Topeka, KS 66603

within 30 days after service of summons on you.



Clerk of the District Court

Electronically signed on 02/28/2019 10:38:06 AM

Documents to be served with the Summons:

Petition

ELECTRONICALLY FILED
2019 Mar 25 AM 10:06
CLERK OF THE RILEY COUNTY DISTRICT COURT
CASE NUMBER: 2019-CV-000038

IN THE DISTRICT COURT OF RILEY COUNTY, KANSAS

STEVEN DEHART,

Plaintiff,

vs.

Case No. 2019-CV-000038

COUNTY BOARD OF COMMISSIONERS
OF RILEY COUNTY,

Defendant.

Entry of Appearance

David R. Cooper of Fisher, Patterson, Sayler & Smith, L.L.P., formally enters his appearance as counsel for defendant. Such attorney requests that he be served with copies of any and all pleadings, notices, and other documents hereafter involved in this proceeding.

FISHER, PATTERSON, SAYLER & SMITH, LLP
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dcooper@fisherpatterson.com
llaushman@fisherpatterson.com

s/David R. Cooper

David R. Cooper	#16690
Lauren E. Laushman	#25776
ATTORNEYS FOR DEFENDANT	

Certificate of Service

I hereby certify that on the 25th day of March, 2019, I caused the foregoing document to be electronically submitted to the district court as captioned above for filing. The same will be deemed filed as indicated on the court's electronic file stamp, providing notice to the following:

Stephen D. Lanterman, #18844
Ryan M. Brungardt, #27600
SLOAN, EISENBARTH, GLASSMAN,
McENTIRE & JARBOE, LLC
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Topeka Kansas 66603-3432
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slanterm@sloanlawfirm.com
rbrungardt@sloanlawfirm.com

/s/David R. Cooper

ELECTRONICALLY FILED

2019 Mar 25 AM 10:42

CLERK OF THE RILEY COUNTY DISTRICT COURT
CASE NUMBER: 2019-CV-000038



Court: Riley County District Court
Case Number: 2019-CV-000038
Case Title: Steven D DeHart vs. County Board of Commissioners
of Riley County
Type: Order Extending Time to Plead

SO ORDERED.

A handwritten signature in purple ink that reads "Morgan Clark".

/s/ Morgan A Clark, Deputy Clerk

Electronically signed on 2019-03-25 10:43:37 page 1 of 3

IN THE DISTRICT COURT OF RILEY COUNTY, KANSAS

STEVEN DEHART,

Plaintiff,

vs.

Case No. 2019-CV-000038

COUNTY BOARD OF COMMISSIONERS
OF RILEY COUNTY,

Defendant.

Order Extending Time to Plead

NOW on this 25th day of March, 2019, the time for the defendant to plead to the Petition filed herein is extended for a period of fourteen (14) days pursuant to Supreme Court Rule No. 113.

CLERK OF THE DISTRICT COURT

PREPARED BY:

FISHER, PATTERSON, SAYLER & SMITH, LLP

3550 S.W. 5th Street

Topeka, Kansas 66606

Office: (785) 232-7761 | Fax: (785) 232-6604

Email: dcooper@fisherpatterson.com

laushman@fisherpatterson.com

/s/David R. Cooper

David R. Cooper #16690

Lauren E. Laushman #25776

Attorneys for Defendant

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/s/David R. Cooper

IN THE DISTRICT COURT OF RILEY COUNTY, KANSAS

STEVEN DEHART,

Plaintiff,

vs.

Case No. 2019-CV-000038

COUNTY BOARD OF COMMISSIONERS
OF RILEY COUNTY,

Defendant.

Notice of Removal

TO: Clerk of the Court
Riley County District Court
Riley County Courthouse
100 Courthouse Plaza
Manhattan, KS 66502-0158

Stephen D. Lanterman and Ryan M. Brungardt
Sloan, Eisenbarth, Glassman McEntire & Jarboe, LLC
534 South Kansas Avenue, Suite 1000
Topeka Kansas 66603-3432
Attorneys for Plaintiff

Please take notice that the Board of County Commissioners of the County of Riley, Kansas, on the 27th day of March, 2019, filed a Notice of Removal with appendices in the office of the Clerk of the United States District Court for the District of Kansas. Attached hereto is a copy of the Notice of Removal (without appendices attached) that is being filed with the federal court.

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dcooper@fisherpatterson.com
llaushman@fisherpatterson.com

s/David R. Cooper

David R. Cooper	#16690
Lauren E. Laushman	#25776
Attorneys for Defendant	

Certificate of Service

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rbrungardt@sloanlawfirm.com

/s/David R. Cooper

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket. **PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

STEVEN DEHART,
Plaintiff,

vs.

Case No. 19-CV-4002

BOARD OF COUNTY COMMISSIONERS OF
THE COUNTY OF RILEY, KANSAS
Defendant.

Designation of Place of Trial

Defendant designates Topeka, Kansas as the place of trial.

Fisher, Patterson, Saylor & Smith, LLP
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Attorneys for Defendant	

Certificate of Service

I hereby certify that on the 27th day of March, 2019, I caused the foregoing document to be electronically submitted to the court as captioned above for filing. The same will be deemed filed as indicated on the court's electronic file stamp. I further certify that a true and correct copy was mailed to *pro se* plaintiff on the date filed with the court addressed as follows: No one.

/s/David R. Cooper

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

STEVEN DEHART,

Plaintiff,

vs.

Case No. 5:19-cv-04022-HLT-KGG

COUNTY BOARD OF COMMISSIONERS
OF RILEY COUNTY,

Defendant.

Unopposed Motion for Extension of Time

Defendant moves the Court for an extension of time to and including April 17, 2019, in which to file its Answer. Defendant states:

1. Defendant was served with the summons and petition on March 4, 2019. ECF 1, ¶ 2 and ECF 1-1, ¶ 9.
2. Defendant secured, on March 25, 2019, a clerk's two-week extension under Kansas Supreme Court Rule 113, making defendant's answer due April 8, 2019.
3. This case was removed from state district court on March 27, 2019. ECF 1.
4. Under F.R.Civ.P. 81(c)(2), a defendant that has not filed an answer who did not answer before removal must answer or present other defenses or objections within under these rules within the longest (A) 21 days after receipt of the initial pleading, (B) 21 days of service of summons, or (C) 7 days after the notice of removal is filed. The longest of these options is April 3, 2019, which time has not expired.
5. This is the first such extension requested.

6. Counsel for defendant requires additional time to meet with defendant's constituents to prepare an answer the specific factual allegations in the petition and then prepare an answer to the petition.

7. Counsel for plaintiffs were consulted do not oppose the requested extension of time.

WHEREFORE, defendant requests an extension of time to and including April 17, 2019, in which to file its Answer.

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Attorneys for Defendant

Certificate of Service

I hereby certify that I electronically filed the foregoing on the 3rd day of April, 2019, a with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to:

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