

No.

In the Supreme Court of the United States

JBG SMITH PROPERTIES, LP FIRST RESIDENCES,
PLAINTIFF RESPONDENT

v.

JORDAN POWELL,
PETITIONER

v.

UNITED STATES SMALL BUSINESS ADMINISTRATION,
THIRD PARTY DEFENDANT RESPONDENT

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT*

APPENDIX

JORDAN POWELL
1263 1ST STREET, SE, 523
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APPENDIX A

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

No. 24-5023

**JBG SMITH PROPERTIES, LP FIRST
RESIDENCES,**

Appellee,

v.

JORDAN POWELL,

Appellant,

v.

**UNITED STATES SMALL BUSINESS
ADMINISTRATION,**

Appellee,

Filed: July 29, 2024

SRINIVASAN, Chief Judge, and HENDERSON,
MILLETT, PILLARD, WILKINS, KATSAS, RAO,
WALKER, CHILDS, PAN, and GARCIA, Circuit
Judges.

ORDER

Upon consideration of the petition for rehearing en
banc, and the absence of a request by any member of
the court for a vote, it is

ORDERED that the petition be denied.

Per Curiam

FOR THE COURT: Mark J. Langer, Clerk
BY: Daniel J. Reidy, Deputy Clerk

APPENDIX B

UNITED STATES COURT OF APPEALS FOR THE
DISTRICT OF COLUMBIA CIRCUIT

No. 24-5023

JBG SMITH PROPERTIES, LP FIRST
RESIDENCES,

Appellee,

v.

JORDAN POWELL,

Appellant,

v.

UNITED STATES SMALL BUSINESS
ADMINISTRATION,

Appellee,

Filed: July 29, 2024

WILKINS, CHILDS, and PAN, Circuit Judges.

ORDER

Upon consideration of the petition for rehearing and
the motion to stay, it is

ORDERED that the petition be denied. It is

FURTHER ORDERED that the motion to stay be
dismissed as moot.

Per Curiam

FOR THE COURT: Mark J. Langer, Clerk

BY: Daniel J. Reidy, Deputy Clerk

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APPENDIX C

**THE SUPERIOR COURT OF
THE DISTRICT OF COLUMBIA**

2022-LTB-007524

**JBG SMITH PROPERTIES, LP FIRST
RESIDENCES,**

Plaintiff,

v.

JORDAN POWELL, et al.,

Defendant,

Filed: July 13, 2024

NOTICE

Superior Court of the
District of Columbia
510 4th St NW, Room 110
Washington DC 20001

U.S. Small Business
Administration
409 3rd St SW
Washington DC 20024

You are named in a lawsuit filed in the Superior Court of the District of Columbia. If you cannot appear at the hearing, please contact the Clerk's Office immediately for more information. If Plaintiff does not participate, the case may be dismissed. If Defendant does not

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participate, default or judgment may be entered.

...

Case Caption: JBG Smith Properties, LP First
Residences v. Jordan Powell, et al.

To: U.S. Small Business Administration

Case Number: 2023-LTB-007524

NOTICE OF REMOTE STATUS HEARING

Your case is scheduled for a(n) Remote Status Hearing
on 07/31/2024; at 11:00 AM in Remote Courtroom B-52.

APPENDIX D

UNITED STATES COURT OF APPEALS FOR THE
DISTRICT OF COLUMBIA CIRCUIT

No. 24-5023

JBG SMITH PROPERTIES, LP FIRST
RESIDENCES,

Appellee,

v.

JORDAN POWELL,

Appellant,

v.

UNITED STATES SMALL BUSINESS
ADMINISTRATION,

Appellee,

Filed: June 5, 2024

WILKINS, CHILDS, and PAN, Circuit Judges.

JUDGMENT

This appeal was considered on the record from the United States District Court for the District of Columbia and on the brief filed by appellant. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

ORDERED AND ADJUDGED that the appeal be dismissed. Appellant has failed to demonstrate that this court may exercise appellate jurisdiction over the district court's order remanding to the D.C. Superior Court the landlord-tenant case that appellant removed. See 28 U.S.C. § 1447(c), (d); *Republic of Venezuela v.*

Philip Morris Inc., 287 F.3d 192, 196 (D.C. Cir. 2002); *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). While 28 U.S.C. § 1447(d) permits review of remand orders issued in certain cases that are removed pursuant to § 1442 or § 1443, appellant did not purport in his notice of removal to remove the case pursuant to § 1442 or § 1443. See *Denizen Dev., L.L.C. v. Saxon*, 850 F. App'x 7, 8 (D.C. Cir. 2021).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT: Mark J. Langer, Clerk
BY: Daniel J. Reidy, Deputy Clerk

APPENDIX E

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 23-3663

JBG SMITH PROPERTIES, LP FIRST
RESIDENCES,

Plaintiff,

v.

JORDAN POWELL,

Defendant,

Filed: December 14, 2023

HOWELL, United States District Judge.

ORDER

Jordan Powell is the defendant in a matter pending before the Superior Court of the District of Columbia, Civil Division, Landlord and Tenant Branch. *See JBG Smith Properties, LP First Residences v. Powell*, No. 2023-LTB-007524 (D.C. Super. Ct. filed July 26, 2023). This matter is before the Court on Powell's notice of removal. ECF No. 1.

Generally, a defendant in a civil action brought in a State court may remove the action to a federal district court if the action is one over which the federal district courts have original jurisdiction. 28 U.S.C. § 1441(a); *see Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987) ("Only state-court actions that originally could have been filed in federal court may be removed to federal

court by the defendant."). Federal district courts have jurisdiction in civil actions arising under the Constitution, laws or treaties of the United States, *see* 28 U.S.C. § 1331, and over civil actions where the matter in controversy exceeds \$75,000, and the suit is between citizens of different states, *see* 28 U.S.C. § 1332(a). The Superior Court of the District of Columbia is considered a State court for purposes of the removal statute. 28 U.S.C. § 1451(1).

Powell argues that this landlord tenant action is removable because he had filed in the Superior Court a motion for joinder of the Small Business Administration ("SBA") and a third-party complaint against the SBA. Plaintiff cannot establish jurisdiction just by bringing, or attempting to bring, a federal government agency into the case. "The presence or absence of federal-question jurisdiction is governed by the 'well-pleaded complaint rule,' which provides that federal jurisdiction exists only when a federal question is presented on the face of the plaintiff's properly pleaded complaint." *Caterpillar*, 482 U.S. at 392. It is apparent that the plaintiff's Verified Complaint for Possession of Real Property, *see* ECF No. 1-2 at 4-6, neither raises a federal question nor demonstrates diversity jurisdiction, as both parties reside or conduct business in the District of Columbia. Even if there were a jurisdictional basis for removal, this Court declines to interrupt or intervene in an ongoing Superior Court proceeding. *See District Properties Assocs. v. District of Columbia*, 743 F.2d 21, 27 (D.C. Cir. 1984) ("[T]he doctrine of *Younger v. Harris*, 401 U.S. 37 (1971), and its progeny restrains federal courts from interfering in ongoing state judicial proceedings.").

"Courts in this circuit have construed removal jurisdiction strictly, favoring remand where the propriety of removal is unclear," *Ballard v. District of Columbia*, 813 F. Supp. 2d 34, 38 (D.D.C. 2011), and if the district court lacks subject matter jurisdiction over the case, the case must be remanded, 28 U.S.C. § 1447(c). Absent a showing that a federal district court has original jurisdiction over the landlord-tenant matter, removal is not proper.

It is hereby

ORDERED that Powell's motion for leave to proceed *in forma pauperis*, ECF No. 3, is GRANTED; it is further

ORDERED that Powell's motion for CM/ECF password, ECF No. 4, is DENIED as moot; and it is further

ORDERED that this matter be **REMANDED FORTHWITH** to the Superior Court of the District of Columbia.

The Clerk of Court shall **TERMINATE** this case.
SO ORDERED.

BERYL A. HOWELL
United States District Judge

APPENDIX F

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

Civil Action No. 23-3663

**JBG SMITH PROPERTIES, LP FIRST
RESIDENCES,**

Plaintiff,

v.

JORDAN POWELL,

Defendant,

Filed: December 8, 2023

NOTICE OF REMOVAL

“

Pursuant to Fed R. Civ. P. 81, 28 U.S.C. § 1441(a), § 1441(c)(1), § 1441(f), § 1446(a), § 1446(b)(3), and 1446(d) for removal to this court's jurisdiction under 28 U.S.C. § 1331, 5 U.S.C. § 702, 706, and 15 U.S.C. § 634 the Defendant/Third-Party Plaintiff makes this short and plain statement of the grounds for removal:

1. On December 4, 2023 the Superior Court of the District of Columbia docketed a motion for joinder of a third-party complaint by the Defendant/Third-Party Plaintiff involving the United States Small Business Administration (SBA) concerning rights denied by impermissible retroactivity. In order for this motion to be considered, The Defendant elected to deny consent for hearing by a magistrate judge in the Landlord and

Tenant Branch for consideration of the motion by an associate judge under Rule 13-I of the Rules for the Superior Court of District of Columbia Landlord and Tenant Branch consistent with the local rules of civil procedure. Following an initial hearing, the case was certified to the Civil Action Branch for a status hearing including consideration of the motion, by Civil II Judge Scott—scheduled for January 19, 2024.

2. On December 5, 2023 the Defendant/Third-Party Plaintiff received a written copy of the **Notice of Remote Status Hearing** from the court by electronic download from the docket of “Events and Orders of the Court” under Case no. 2023-LTB-007524.

3. Provided the motion by the Defendant/Third-Party Plaintiff concerns joinder of the SBA, a United States agency under the exclusive jurisdiction of federal courts, and a copy of a scheduling 'order' by the Superior Court has been received by the Defendant/Third-Party Plaintiff, this case has become removable provided certification to a judge capable of considering the motion follows Local Rule 18 where also the motion involves a party under the exclusive jurisdiction of federal courts. Accordingly, removal was first ascertained with requisite certainty. 28 U.S.C. § 1446(b)(3) provides that “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.” As provided here:

"Paper" is defined as a written or printed document or instrument. "Receipt" is defined as the act of receiving; also, the fact of receiving or being received; that which is received. "Receive" is similarly defined as to take into possession and control; accept custody of. "Copy" is defined as the transcript or double of an original writing. "Ascertain" means to make certain, exact, or precise or to find out or learn with certainty. Thus, "ascertain" requires a greater level of certainty or that the facts supporting removability be stated unequivocally. The information supporting removal in a copy of an amended pleading, motion, order or other paper under 28 U.S.C.S. § 1446(b)(3) must be unequivocally clear and certain to start the time limit running." See *Morgan v. Huntington Ingalls*, 879 F.3d 602, 604.

4. Furthermore, 28 U.S.C. § 1446(b)(3) requires "that the case is one which is or has become removable"—and this is true even when "the case stated by the initial pleading is not removable." See *Payroll, LLC v. Botany Bay, Inc.*, 2023 U.S. Dist. LEXIS 186064, *7. See also: "For purposes of 28 U.S.C.S. § 1446(b)(3), a pleading is a formal written statement of accusation or defense presented by the parties alternately in an action at law. A motion is primarily an application for a rule or order made viva voce to a court or judge, but the term is generally employed with reference to all such applications, whether written or oral. An order is a mandate, precept; a command or direction authoritatively given; a rule or regulation.... Every

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direction of a court or judge made or entered in writing,
and not included in a judgment." *See Morgan v.*
Huntington Ingalls, 879 F.3d 602, 604.

Date: December 6, 2023

Respectfully Submitted,

[/s/]

Jordan T.T. Powell
1263 1st Street, SE, 523
Washington, D.C. 20003
T: 202.503.5284
E: Jttp@pm.me

”

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APPENDIX G

**THE SUPERIOR COURT OF
THE DISTRICT OF COLUMBIA**

2022-LTB-007524

**JBG SMITH PROPERTIES, LP FIRST
RESIDENCES,
Plaintiff,**

v.

**JORDAN POWELL,
Defendant,**

v.

**U.S. SMALL BUSINESS ADMINISTRATION,
Defendant,**

Filed: December 8, 2023

NOTICE

Superior Court of the
District of Columbia
510 4th St NW, Room 110
Washington DC 20001

U.S. Small Business
Administration
409 3rd St SW
Washington DC 20024

You are named in a lawsuit filed in the Superior Court
of the District of Columbia. If you cannot appear at the
hearing, please contact the Clerk's Office immediately

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for more information. If Plaintiff does not participate, the case may be dismissed. If Defendant does not participate, default or judgment may be entered.

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Case Caption: JBG Smith Properties, LP First Residences v. Jordan Powell

To: U.S. Small Business Administration

Case Number: 2023-LTB-007524

NOTICE OF REMOTE STATUS HEARING

Your case is scheduled for a(n) Remote Status Hearing on 01/19/2024; at 11:00 AM in Remote Courtroom 219.

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APPENDIX H

**THE SUPERIOR COURT OF
THE DISTRICT OF COLUMBIA**

2022-LTB-8590

**JBG SMITH PROPERTIES, LP FIRST
RESIDENCES,
Plaintiff,**

v.

**JORDAN POWELL,
Defendant,**

v.

**UNITED STATES SMALL BUSINESS
ADMINISTRATION,
Defendant,**

Initial Filing: July 26, 2023

SCOTT, Associate Judge

EVENTS AND ORDERS OF THE COURT

07/26/2023	Complaint Filed <i>VERIFIED COMPLAINT FOR POSSESSION OF REAL PROPERTY -- FORM 1A</i> Filed By: Plaintiff JBG SMITH PROPERTIES, LP FIRST RESIDENCES
07/27/2023	Initial Hearing Notice and Instructions for LT [Remote]
07/27/2023	Notice

09/08/2023	Affidavit/Declaration of Service: Personal Service Docketed On: 09/12/2023 Filed By: Plaintiff JBG SMITH PROPERTIES, LP FIRST RESIDENCES Served On: Defendant POWELL, JORDAN
12/03/2023	Motion Filed (Judicial Officer: Scott, Ebony M) Docketed on: 12/04/2023 Filed by: Defendant POWELL, JORDAN [Document Selector **CLICKED** 1. Motion Filed (Motion to Join Third-Party Complaint).pdf 2. Third Party Complaint (Superior Court).pdf 3. Exhibit A (Third-Party Complaint).pdf]
12/04/2023	Remote Initial Hearing (9:00 AM) MINUTES - 12/04/2023 Consent Denied to Have Case Heard by a Magistrate Judge Party: Defendant POWELL, JORDAN <i>Held and Completed;</i> <i>Journal Entry Details:</i> <i>COURTSMART. REMOTE. Plaintiff</i> <i>counsel Riger present via WebEx.</i> <i>Defendant Powell present via WebEx.</i> <i>Defendant denied consent to magistrate</i> <i>judge. Case certified to judge E. Scott. Case</i> <i>continued to 1/19/2024 at 11:00am for a</i> <i>status hearing in courtroom 219. All rights</i> <i>reserved. ;</i> Parties Present: Primary Attorney Polito, Melissa S Defendant POWELL, JORDAN <i>Held and Completed</i>
12/04/2023	Consent Denied to Have Case Heard by a Magistrate Judge Party: Defendant POWELL, JORDAN

12/08/2023	Notice of Removal to US District Court USDC Number: 1:23-cv-03663
01/19/2024	CANCELED Remote Status Hearing (11:00 AM) (Judicial Officer: Scott, Ebony M) <i>Vacated</i> [initial notices sent 12/04/23 (Powell and Polito) and 12/08/23 (SBA)]
04/09/2024	Notice
04/09/2024	Notice of Removal Processed and Forwarded to USDC
04/09/2024	Case Closed. Notice of Removal. Notices Mailed
06/12/2024	Notice to Court (Praecipe) Filed PRAECIPE REQUESTING STATUS CONFERENCE FILED Docketed on: 06/13/2024 Filed by: Plaintiff JBG SMITH PROPERTIES, LP FIRST RESIDENCES
07/31/2024	Remote Status Hearing (11:00 AM) MINUTES - 07/31/2024 Consent Denied to Have Case Heard by a Magistrate Judge Party: Defendant POWELL, JORDAN Held and Completed Journal Entry Details: COURTSMART. REMOTE. Plaintiff <i>counsel Cash present via WebEx. Defendant</i> <i>Powell present via WebEx. Defendant</i> <i>denied consent to magistrate judge. Case</i> <i>certified to judge E. Scott. Case continued to</i> <i>10/25/2024 at 11:00am for a status hearing in</i> <i>courtroom 219. ;</i> <i>Parties Present:</i> <i>Primary Attorney Polito, Melissa S</i> <i>Defendant POWELL, JORDAN</i>

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	<i>Held and Completed</i>
07/31/2024	Consent Denied to Have Case Heard by a Magistrate Judge Party: Defendant POWELL, JORDAN
10/25/2024	Remote Status Hearing (10:00 AM) (Judicial Officer: Scott, Ebony M)

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APPENDIX I

**THE SUPERIOR COURT OF
THE DISTRICT OF COLUMBIA**

2022-LTB-8590

**JBG SMITH PROPERTIES, LP FIRST
RESIDENCES,**

Plaintiff,

v.

JORDAN POWELL,

Defendant,

Date: March 10, 2023

KRAVITZ, Associate Judge

STATUS HEARING

Case DISMISSED. Continuance MOOT.

Case SEALED.*

*See D.C. Code §42-3505.09(a)(1): "(a) The Superior Court of the District of Columbia ("Superior Court") shall seal all court records relating to an eviction proceeding: (1) If the eviction proceeding does not result in a judgment for possession in favor of the housing provider, 30 days after the final resolution of the eviction proceeding."

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APPENDIX J

**THE SUPERIOR COURT OF
THE DISTRICT OF COLUMBIA**

2022-LTB-8590

**JBG SMITH PROPERTIES, LP FIRST
RESIDENCES,**

Plaintiff,

v.

JORDAN POWELL,

Defendant,

Filed: January 31, 2023

MOTION FOR CONTINUANCE

Details: "Case # 2022-LTB-008590 - Envelope # 33725"

Submitted: "01/31/2023 6:10 PM"

Filing Code: "Motion for Continuance"

Description: "Application for Continuance"

By: "Jordan Thomas Taylor Powell"

Username: "jttp@pm.me"

Lead Document: "January 31 2023 Complete
Application for Continuance.pdf"

Excerpt: "...[and] the Small Business
Administration ... who's also ultimately
responsible for this.... Without a continuance, I
may complete an answer form with attachments,
a motion form for removal to U.S. District Court,
a Superior court rule 12 dismissal motion for
failure to join another party, a Superior court
rule 14 third-party practice claim"

Attachment: "2023_Powell_Petition for Writ of Mandamus_Working Copy.pdf"

Excerpt: "the original June 16, 2020 [SBA] loan agreement ... the Biden Administration's actions and/or omissions since that time, outlined here, have further degraded the Petitioner and the Company and provide cause...." p. 51.

Attachment: "Immediate Re[s]ponse to Rent Payment Notice.pdf"

Excerpt: "To ...<dmoore@jbgsmith.com>
Date Friday, September 16th, 2022 at 12:46 PM
Friday, September 16th, 2022 at 12:46 PM
...I got yesterdays notice on my door. The timing is interesting since I sent the email below just a few hours before....

----- Forwarded message -----

From: Jordan

Powell<jordan@pricecheckpay.com> Date: On

Thu, Sep 15, 2022 at 2:51 PM Subject: Fwd:

URGENT: 749 Days of Ongoing Delay in an

EMERGENCY RE: Modification to SBA

Disaster Loan Number: 6360447902 To:

PDCRecons@sba.gov

<PDCRecons@sba.gov>,PDC Reconsideration

<PDC.Reconsideration@sba.gov>

Cc: isabella.guzman@sba.gov

<isabella.guzman@sba.gov>

Dear Administrator Guzman,

It has been **749 days** since my initial increase request, dated August 27th 2020. Your immediate action is urgently necessary. ..."

RECEIVED
SUPREME COURT OF THE
US POLICE OFFICE

2024 OCT 21 AM 11: 21

LS578