

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**ALBERT LEE ABRAHAM, JR.**

**PLAINTIFF**

**VS.**

**CIVIL ACTION NO. 4:15-CV-036-DMB-JMV**

**R. ARNOLD SMITH, JR., M.D.,  
NORTH CENTRAL MISSISSIPPI REGIONAL CANCER  
CENTER, AND DEFENDANTS A THROUGH R,  
BEING THOSE PERSONS OR LEGAL ENTITIES WHOSE  
TRUE NAMES HAVE YET TO BE DISCOVERED**

**DEFENDANTS**

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**NOTICE OF REMOVAL**

**BANKRUPTCY CASE: RALPH ARNOLD SMITH, JR.  
CASE NUMBER 15-01048: UNITED STATES BANKRUPTCY COURT FOR THE  
SOUTHERN DISTRICT OF MISSISSIPPI**

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Pursuant to 28 U.S.C. §§ 1334, 1452, 1331, Rule 9027 of the Federal Rules of Bankruptcy Procedure, and any other applicable statute, law, or rule, R. Arnold Smith, Jr., M.D., also known as Ralph Arnold Smith, Jr. ("Dr. Smith"), and North Central Mississippi Regional Cancer Center (Inc.) ("NCMRCC"), by and through counsel, file this Notice of Removal of the civil action styled *Albert Lee Abraham, Jr. v. R. Arnold Smith, Jr., M.D., North Central Mississippi Regional Cancer Center, and Defendants A through R, Being Those Persons or Legal Entities Whose True Names Have Yet To Be Discovered*, cause number 2012-0053, Circuit Court of Leflore County, Mississippi, hereby removing this civil action to the United States District Court for the Northern District of Mississippi, Greenville Division. In support of this Notice of Removal, Defendants R. Arnold Smith, Jr., M.D and North Central Mississippi Regional Cancer Center (Inc.) state the following:

1. Plaintiff Albert Lee Abraham, Jr. commenced this civil action in the Circuit Court of Leflore County, Mississippi, by filing a complaint against defendants R. Arnold Smith, Jr., M.D., North Central Mississippi Regional Cancer Center (Inc.), and the un-named defendants on July 17, 2012. Venue is proper in this court under 28 U.S.C. §1452(a) and under Rule 9027 of the Federal Rules of Bankruptcy Procedure.

2. In the Second Amended Complaint, Albert Lee Abraham, Jr. claims compensatory and punitive damages from the defendants, making multiple claims and allegations that affect the administration of Dr. Smith's March 27, 2015 Chapter 13 bankruptcy filing.

3. Plaintiff Abraham filed his *Second Amended Complaint* in the state court civil action on or about March 11, 2014. Dr. Smith filed his *Answer and Counterclaim of R. Arnold Smith, Jr. to Second Amended Complaint* on March 28, 2014. NCMRCC filed its *Answer* on March 28, 2014.

4. The state court record is voluminous. In addition, the state court record contains numerous documents, exhibits, and pleadings that contain information that is not reasonably subject to redaction. Plaintiff Abraham's counsel has been treating the state court proceeding as if the entire state court record and file is sealed and confidential. Pursuant to Rule 5.2 of the *Federal Rules of Civil Procedure*, Dr. Smith and NCMRCC, in an abundance of caution, respectfully request that the court grant leave for the removing parties to file the state court record in total under seal, pursuant to Rule 9027 of the *Federal Rules of Bankruptcy Procedure*, Rule 5.2 of the *Federal Rules of Civil Procedure*, and any other applicable rule, with the court to decide the parameters of public access of the state court record.

5. No other defendants have been joined, and there is no known motion or request pending that would or could result in the joinder of any other party.

6. Dr. Smith is a citizen of the State of Mississippi. Dr. Smith is currently held in custody by the State of Mississippi at the Mississippi State Hospital in Rankin County, Mississippi.

7. North Central Mississippi Regional Cancer Center (Inc.) is a Mississippi corporation in good standing. The Board of Directors and officers of NCMRCC have duly authorized the removal of the state court action to federal court.

8. The parties are entitled to removal of this civil action under 28 U.S.C. §1452 and §1334. Ralph Arnold Smith, Jr. filed a Chapter 13 bankruptcy on March 27, 2015 in the United States Bankruptcy Court for the Southern District of Mississippi, Jackson Division, case number 2015-01048.

9. In this removed civil action, Dr. Smith and NCMRCC assert multiple federal questions under the constitution and laws of the United States, including but not necessarily limited to:

- a. Fourth Amendment search and seizure deprivations and claims for damages for illegal searches and seizures of Dr. Smith's home, office, and his person;
- b. Fifth and Fourteenth Amendment procedural and substantive due process deprivations, including claims for damages; and
- c. 42 U.S.C. §1983 constitutional torts and related claims and damages asserted by Dr. Smith in Dr. Smith's counter-claim against Plaintiff Albert Lee Abraham, Jr.; and
- d. as more specifically set out and referenced in Dr. Smith's Answer and Counter-Claim and the Answer of NCMRCC.

10. The state court judge sua sponte', and without advance notice to Dr. Smith or to NCMRCC, stayed all litigation and discovery of Dr. Smith's counterclaim for an interminable amount of time. In light of the ongoing and open-ended stay of Dr. Smith's counter-claim, the federal court should adjudicate the underlying civil action so that Dr. Smith's bankruptcy case can be administered in a timely manner.

11. Defendants R. Arnold Smith, Jr. and North Central Mississippi Regional Cancer Center (Inc.) do hereby remove this civil action from the Circuit Court of Leflore County, Mississippi, to this Court. This civil action is a core proceeding, because this action involves property of the estate and affects the administration of the estate.

12. Venue is proper in this district under 28 U.S.C. § 1441(a) because the Circuit Court of Leflore County, Mississippi, the state court where this civil action was pending, is located within this Court's district and division.

13. This removal is timely under Rule 9027 of the *Federal Rules of Bankruptcy Procedure*.

14. In accordance with Rule 9027 of the *Federal Rules of Bankruptcy Procedure*, counsel for Dr. Smith and NCMRCC have this day given written notice of the filing of this Notice of Removal to counsel for Plaintiff Albert Lee Abraham, Jr. and have filed a true and correct copy of this Notice of Removal with the Circuit Clerk of Leflore County, Mississippi.

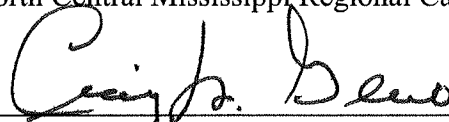
15. Dr. Smith and NCMRCC consent to trial, and to the entry of final orders and judgments by the bankruptcy court, to the extent any of these matters are non-core matters that are related to Dr. Smith's Chapter 13 bankruptcy case.

WHEREFORE, Ralph Arnold Smith, Jr., and North Central Mississippi Regional Cancer Center (Inc.), do hereby remove the above-captioned civil action from the Circuit Court of Leflore County, Mississippi to the United States District Court for the Northern District of Mississippi, Greenville Division.

RESPECTFULLY SUBMITTED, this 30<sup>th</sup> day of March, 2015.

Ralph Arnold Smith, Jr. and  
North Central Mississippi Regional Cancer Center, Inc.

By: \_\_\_\_\_



Craig M. Geno, bar number 4793  
Law Office of Craig M. Geno, PLLC  
587 Highland Colony Parkway  
Ridgeland, MS 39157  
Phone: 601-427-0048

**CERTIFICATE OF SERVICE**

I, the undersigned attorney, certify that I have this day caused a true and correct copy of the foregoing Notice of Removal to be delivered via United States mail, postage prepaid, and via email, where indicated, to the following:

Attorneys for Albert Lee Abraham, Jr.

Ralph Chapman  
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Scot Spragins  
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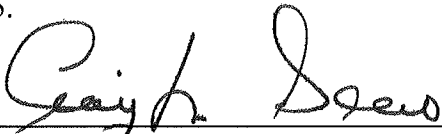
Trial court clerk

Circuit Clerk of Leflore County, Mississippi  
Via hand-delivery

State court judge

Honorable L. Breland Hilburn  
PO Box 2114  
Jackson, MS 39225  
bhilburn1966@yahoo.com

THIS the 30<sup>th</sup> day of March, 2015.

  
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Craig M. Genovese