

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

ZIECHA NORWILLO, as surviving
Spouse and as Personal Representative of
the Estate of FRANCIS NORWILLO,
and MICHAEL DOUGHERTY,

CASE NO. 8:16-CV-3471-T-35MAP

Plaintiff,

vs.

PURPLE SHOVEL, LLC,
SKYBRIDGE TACTICAL, LLC,
SYBRIDGE RESOURCES, LLC,
REGULUS GLOBAL, LLC, and
REGULUS GLOBAL, INC.,

Defendants.

**DEFENDANT, SKYBRIDGE TACTICAL, LLC'S NOTICE OF FILING
NOTICE OF REMOVAL FILED IN STATE COURT**

COMES NOW, Defendant, SKYBRIDGE TACTICAL, LLC, by and through undersigned counsel and hereby gives notice of filing, pursuant to 28 U.S.C. §§1446, the attached Notice of Removal in the Circuit Court of the Thirteenth Judicial District in and for Hillsborough County, Florida, previously served upon all parties on January 6, 2017.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of January, 2017, a true and correct copy of the foregoing served this via U.S. Mail upon: C. STEVE YERRID, ESQ. & DAVID D. DICKEY, ESQ., The Yerrid Law Firm (ddickey@yerridlaw.com) (csullivan@yerridlaw.com), 101 East Kennedy Boulevard, Suite 3900 Tampa, Florida 33602; KURT B. ARNOLD, ESQ. (*Pro-Hac Vice Anticipated*) (karnold@arnolditkin.com) and CAJ. D. BOATRIGHT, ESQ. (*Pro-Hac Vice Anticipated*) (cboatright@arnolditkin.com), Arnold & Itkin, LLP, 6009 Memorial Drive, Houston, Texas 77007; JUAN A. RUIZ, ESQ. and DARICK CRUMBLY, ESQ. (jar.service@rissman.com),

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Case No. 8:16-CV-3471-T-35MAP
Page 2 of 2

Rissman, Barrett, Hurt, Donahue, McLain & Manfan, P.A., 201 E. Pine Street, Suite 1500, Orlando, Florida 32802-4940; and JOHN D. MULLEN, ESQ., Phelps Dunbar, LLP (john.mullen@phelps.com) 100 South Ashley Drive, Suite 1900, Tampa, Florida 33602.

Respectfully submitted,

**SCHOUEST, BAMDAS, SOSHEA &
BENMAIER, PLLC**

Counsel for Defendant

SKYBRIDGE TACTICAL, LLC

750 Park of Commerce Boulevard, Suite 130

Boca Raton, FL 33487

(561) 990-1699 – Phone

(561) 283-3383 – Facsimile

By: *ES/ Eric J. Stockel*

ERIC J. STOCKEL, ESQUIRE

Lead Counsel

Florida Bar No 188095

E-Mail: ESockel@sbsblaw.com

IN THE CIRCUIT COURT OF THE 13TH JUDICIAL CIRCUIT IN AND FOR
HILLSBOROUGH COUNTY, FLORIDA
CIRCUIT CIVIL DIVISION

ZIECHA NORWILLO, as surviving
Spouse and as Personal Representative of
The Estate of FRANCIS NORWILLO,
and MICHAEL DOUGHERTY,

Plaintiffs,

CASE NO. 16-CA-009933

vs

PURPLE SHOVEL, LLC,
SKYBRIDGE TACTICAL, LLC,
SYBRIDGE RESOURCES, LLC,
REGULUS GLOBAL, LLC, and
REGULUS GLOBAL, INC.,

Defendants.

**DEFENDANT, SKYBRIDGE TACTICAL, LLC'S NOTICE OF FILING NOTICE OF
REMOVAL TO UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF
FLORIDA,**

COMES NOW, SKYBRIDGE TACTICAL, LLC, by and through undersigned counsel,
hereby files their Notice of Filing the attached copy of the Notice of Removal to United States
District Court, Middle District of Florida, Case No. 8:16-CV-3471-T-35MAP.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of January, 2016, a true and correct copy of the
foregoing served this via U.S. Mail upon: C. STEVE YERRID, ESQ. & DAVID D. DICKEY,
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Dunbar, LLP (john.mullen@phelps.com) 100 South Ashley Drive, Suite 1900, Tampa, Florida

33602.

SCHOUEST, BAMDAS, SOSHEA &
BENMAIER, PLLC

750 Park of Commerce Blvd., Suite 130

Boca Raton, Florida 33487

Tel: (561) 990-1699

Fax: (561) 283-3383

E-mail: jglotzer@sbsblaw.com

By: 

Jeffrey M. Glotzer, Esquire

FBN: 184489

Eric J. Stockel, Esquire

FBN: 188905

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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA**

ZIECHA NORWILLO, as surviving
Spouse and as Personal Representative of
the Estate of FRANCIS NORWILLO,
and MICHAEL DOUGHERTY,

CASE NO.

8:16 CV 3471-T-35 MAP

Plaintiff,

vs.

PURPLE SHOVEL, LLC,
SKYBRIDGE TACTICAL, LLC,
SYBRIDGE RESOURCES, LLC,
REGULUS GLOBAL, LLC, and
REGULUS GLOBAL, INC.,

Defendants.

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CLERK US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA FLORIDA

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NOTICE OF REMOVAL

PLEASE TAKE NOTICE that named Defendant, SKYBRIDGE TACTICAL, LLC (hereinafter referred to as "Skybridge"), by and through undersigned counsel, hereby removes the above-captioned matter to this Honorable Court pursuant to 28 U.S.C. §§ 1441 and 1442(a)(1), submits this Notice of Removal pursuant to 28 U.S.C. § 1446 and, in support of this removal, Skybridge states the following:

1. On or about October 26, 2016, Plaintiffs, ZIECHA NORWILLO, as surviving spouse and as Personal Representative of the Estate of FRANCIS NORWILLO (hereinafter referred to as "NORWILLO"), and MICHAEL DOUGHERTY (hereinafter referred to as "DOUGHERTY")(hereinafter NORWILLO and DOUGHERTY are jointly referred to as "Plaintiffs"), filed a Complaint in the Circuit Court for the Thirteenth Judicial Circuit, in and for Hillsborough County, Florida, captioned *Norwillo, et al. v. Purple Shovel, LLC, et al.*, Case No. 16-CA-009933. See Exhibits A and B (copies of Summons served and Complaint served on

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Skybridge, respectively (Plaintiffs' Complaint hereinafter referred to as the "Complaint")),

2. In the Complaint, NORWILLO alleges causes of action for Wrongful Death and Intentional Infliction of Emotional Distress as against Skybridge, and DOUGHERTY alleges causes of action for Negligence and Gross Negligence.

3. This action arises out of the death of Francis Norwillo, who allegedly died on June 6, 2015, as a result of injuries sustained from his handling of a rocket-propelled grenade at a weapons range in Bulgaria located near the village of Anevo when the grenade suddenly exploded without warning. Complaint, ¶ 13, 14. When the grenade exploded, DOUGHERTY was standing next to Francis Norwillo and was injured by the explosion. Complaint, ¶ 14, 16.

4. It is alleged that Defendants procured the rocket-propelled grenade that causes the explosion among other weapons, for Francis Norwillo and DOUGHERTY to inspect. Complaint, ¶ 17.

5. It is alleged that Defendants knew the grenade that exploded was manufactured along with several others over 30 years before in 1984 by a Bulgarian company rendering its shelf life expired from degraded and now defective components. Complaint, ¶ 18.

6. It is alleged that Defendants knew that the U.S. Government had rejected the use of these same grenades because the grenades were defective, unstable and dangerous, Complaint ¶ 19.

7. It is alleged that despite knowing the defective, unstable dangerous nature of the more than 30-year old Bulgarian-manufactured grenades, Defendants knowingly and willfully procured the grenades and knowingly and willfully placed Francis Norwillo and DOUGHERTY in grave danger." Complaint, ¶ 20.

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8. It is alleged that after the incident, Defendants intentionally and knowingly misrepresented, hid, or tried to cover up the facts surrounding Francis Norwillo's death from his surviving spouse, Plaintiff NORWILLO. Complaint, ¶21.

I. REMOVAL BASED UPON FEDERAL QUESTION JURISDICTION

9. 28 U.S.C. § 1441(a) provides that "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district . . . embracing the place where such action is pending. For purposes of removal under this chapter, the citizenship of defendants sued under fictitious names shall be disregarded."

A. To The Extent Plaintiffs' Claims Are Justiciable, The Interpretation and Application of Federal Statutes Will Determine the Viability of Plaintiff's Claims; Thus, Federal Question Jurisdiction Is Appropriate

10. 28 U.S.C. § 1441(b) provides that "any civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties."

11. The application and interpretation of two federal statutes—the Defense Base Act ("DBA"), 42 U.S.C. §§ 1651 *et seq.*, and the Longshore and Harbor Workers' Compensation Act ("LHWCA"), 33 U.S.C. §§ 901 *et seq.* - will be of paramount importance in this case. As the viability of Plaintiff's claims depends upon the interpretation and application of federal statutes, federal question jurisdiction is entirely appropriate in this case and removal pursuant to 28 U.S.C. §§ 1441(a) and (b) is proper. *See Nauert v. Ace Props. & Cas. Ins. Co.*, 2005 U.S. Dist. LEXIS

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34497 (D. Colo.) (holding that the DBA and LHWCA pre-empt state law)

B. Plaintiff's Allegations Raise "Uniquely Federal Interests"; Thus, To The Extent Her Claims Are Justiciable and in The Absence of Federal Statutes or Regulations, Federal Common Law Should Be Developed and Applied to Plaintiff's Claims

12. This Court has original jurisdiction under 28 U.S.C. § 1331 because Plaintiff's claims are based upon substantial questions of federal law and implicates significant federal issues. *See Grable & Sons Metals Prods., Inc. v. Darue Eng'g & Mfg.*, 545 U.S. 308, 312 (2005).

13. The events underlying this lawsuit occurred in Bulgaria. The U.S. government contracted Purple Shovel, LLC ("Purple Shovel") to train and equip Syrian opposition forces in Bulgaria. Purple Shovel subcontracted Skybridge to assist with the training efforts. Francis Norwillo and DOUGHERTY were weapon trainers employed by Skybridge to work in Bulgaria. While Francis Norwillo was loading a rocket propelled grenade, it exploded, killing Francis Norwillo. At the time of the explosion, DOUGHERTY was standing near Francis Norwillo, and sustained physical injuries. Plaintiff has clearly raised issues that implicate "uniquely federal interests." *Boyle v. United Techs. Corp.*, 487 U.S. 500, 504 (1988).

14. Based upon the federal interest in the issues raised in this lawsuit, it is evident that this Court should defer to federal, rather than state, interests when reviewing this case. Assuming that this case is justiciable, this Court should conclude that the overwhelming federal interest tips the balance of equities clearly in favor of developing and applying a federal common law.

15. Accordingly, Skybridge submits that removal pursuant to 28 U.S.C. § 1441 is proper in this case. *See Grable & Sons Metals Prods.*, 545 U.S. 308, 312.

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II. REMOVAL BASED UPON FEDERAL OFFICER REMOVAL STATUTE

16. The Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1442(a)(1), which provides that a civil action originally filed in a State court may be removed if it is against the "United States or any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, sued in an official or individual capacity for any act under color of such office." As recognized by the Court of Appeals for the Third Circuit and this District Court, the federal officer removal statute is to be broadly construed. *Megill v. Worthington Pump, Inc.*, 1999 U.S. Dist. LEXIS 4433 (D. Del.), citing *Sun Buick, Inc. v. Saab Cars USA, Inc.*, 26 F.3d 1259, 1262 (3d Cir. 1994).

17. Skybridge satisfies the criteria necessary for federal officer removal. See *Davis v. Cent. Ala. Elec. Coop.*, 2015 U.S. LEXIS 105811 (S.D. Al.) In applying the criteria, Skybridge is not required to establish "an airtight case on the merits in order to show the required causal connection." *Jefferson County v. Acker*, 527 U.S. 423, 432 (1999) (holding that such a high threshold would defeat the purpose of the removal statute and accepting the "theory of the case" as an "adequate threshold showing that the suit is for an act under color of office") (quotations and citations omitted). Skybridge is a "person" acting under an officer of the United States or an agency thereof sued in an official or individual capacity for any act under color of such office. *Megill v. Worthington Pump, Inc.*, 1999 U.S. Dist. LEXIS 4433. Skybridge is being sued because they were acting under federal authority.

18. Skybridge will raise colorable federal defenses, including the Government Contractor Defense, established in *Boyle v. United Techs. Corp.*, 487 U.S. 500, 504-505 (1988). In *Boyle*, the United States Supreme Court held that tort liabilities arising out of the performance

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of a federal government contract and "the civil liability of federal officials for actions taken in the course of their duty" are areas of "uniquely federal interests" that are "so committed by the Constitution and laws of the United States to federal control that state law is pre-empted" and replaced by federal common law.

19. There is a causal connection between Plaintiffs' claim and Skybridge's actions performed under color of federal office.

20. Accordingly, because Skybridge has satisfied all of the criteria set forth in *Davis*, removal pursuant to the federal removal statute is proper.

III. DEFENDANTS HAVE PROPERLY REMOVED THIS ACTION PURSUANT TO 28 U.S.C. § 1446

21. Upon information and belief, all named Defendants have not been served and/or entered an appearance in this case.

22. All of the named Defendants that have been served and/or entered an appearance in this case consent to the removal of this action.

23. Pursuant to 28 U.S.C. §1446(a) and Local Rule 4.02(b), true and legible copies of all process, pleadings, order, and other papers or exhibits of every kind, including depositions on file in the State Court are attached to this Notice of Removal (Exhibits "A" through "GG") and undersigned counsel certifies that a copy of this Notice of Removal will be served promptly on Plaintiffs and filed with the Clerk of the Circuit Court for the Thirteenth Judicial Circuit, in and for Hillsborough County, Florida.¹

¹ There were several filings on the State Court Docket that indicated that a redaction was requested. Accordingly, these filings were neither viewable or printable, and therefore are not attached hereto.

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WHEREFORE, Defendant, **SKYBRIDGE TACTICAL, LLC**, hereby removes the above-captioned action from the Circuit Court for the Thirteenth Judicial Circuit, in and for Hillsborough County, Florida, to the U.S. District Court for the Middle District of Florida.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of December, 2016, a true and correct copy of the foregoing served this via U.S. Mail upon: C. STEVE YERRID, ESQ. & DAVID D. DICKEY, ESQ., The Yerrid Law Firm (ddickey@yerridlaw.com) (csullivan@yerridlaw.com), 101 East Kennedy Boulevard, Suite 3900 Tampa, Florida 33602; KURT B. ARNOLD, ESQ. (*Pro-Hac Vice Anticipated*) (karnold@arnolditkin.com) and CAJ. D. BOATRIGHT, ESQ. (*Pro-Hac Vice Anticipated*) (cboatright@arnolditkin.com), Arnold & Itkin, LLP, 6009 Memorial Drive, Houston, Texas 77007; JUAN A. RUIZ, ESQ. and DARICK CRUMBLY, ESQ. (jar.service@rissman.com), Rissman, Barrett, Hurt, Donahue, McLain & Manfan, P.A., 201 E. Pine Street, Suite 1500, Orlando, Florida 32802-4940; and JOHN D. MULLEN, ESQ., Phelps Dunbar, LLP (john.mullen@phelps.com) 100 South Ashley Drive, Suite 1900, Tampa, Florida 33602.

Respectfully submitted,

**SCHOUEST, BAMDAS, SOSHEA &
BENMAIER, PLLC**

Counsel for Defendant

SKYBRIDGE TACTICAL, LLC

750 Park of Commerce Boulevard, Suite 130

Boca Raton, FL 33487

(561) 990-1699 – Phone

(561) 283-3383 – Facsimile

By: 

ERIC J. STOCKEL, ESQUIRE

Lead Counsel

Florida Bar No 188095

E-Mail: EStockel@sbsblaw.com