

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT CRAIG,

Plaintiff,

v.

BUFFETS, INC.,

Defendant.

Case No.
Honorable
Magistrate

VICTOR J. MASTROMARCO, JR. (P34564)
MANDA L. DANIELESKI (P62597)
THE MASTROMARCO FIRM
Attorneys for Plaintiff
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NOTICE OF REMOVAL

Defendant, BUFFETS, INC., through its undersigned attorneys, gives notice of removal of this action from Saginaw County Circuit Court, where it is currently pending, to the United States District Court for the Eastern District of Michigan pursuant to 28 U.S.C. § 1441 *et seq.*, and in support states as follows:

1. On or about May 24, 2011, a lawsuit was filed against Defendant in the Saginaw County Circuit Court, State of Michigan, entitled, *Robert Craig v. Buffets, Inc.*, Case No. 11-012886-CZ-4. Plaintiff alleges employment-related claims stemming from his employment with Defendant.

2. The Summons and Complaint initiating the lawsuit were served by Certified Mail upon Defendant's agent for service in Michigan on June 2, 2011.

3. The Summons and Complaint are the only pleadings, process, or orders that exist in this case to date. Copies of these documents are attached as Exhibit 1.

4. This Notice of Removal is filed within 30 days of Defendant's first receipt of the Summons and Complaint, pursuant to 28 U.S.C. § 1446(d).

5. This is a civil action alleging employment claims where the amount in controversy is in excess of \$75,000, exclusive of interest, costs, and attorneys' fees, and the real parties in interest are citizens of different states, i.e., Michigan and Minnesota. Accordingly, the Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 and removal is proper pursuant to 28 U.S.C. §1441 (removal is proper where none of the parties in interest, properly joined and served as defendants, is a citizen of the forum state).

6. The parties to this action are citizens of different states:

a. Based upon information and belief, Plaintiff is a resident of Saginaw County, Michigan, and for purposes of federal diversity jurisdiction, is a citizen of the State of Michigan.

b. At all relevant times, Defendant was and is a corporation organized under the laws of the State of Minnesota, with its principal place of business located in the State of South Carolina. Pursuant to 28 U.S.C. § 1332(c), "a corporation shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business." Defendant is not incorporated under the laws of the State of Michigan and does not maintain its principal place of business in the State

of Michigan. Accordingly, Defendant is not a citizen of the State of Michigan.

7. Paragraphs 3 and 34 of the Complaint allege damages in excess of \$75,000.

8. Because the Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332, and because all other prerequisites for removal of this case to federal court have been fulfilled, this matter may be removed to the United States District Court for the Eastern District of Michigan pursuant to 28 U.S.C. § 1441.

9. Notice of this removal is being given to Saginaw County Circuit Court and opposing counsel concurrent with the filing of this Notice of Removal, pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, Defendant removes this action to the United States District Court for the Eastern District of Michigan.

Respectfully submitted,

s/Martin C. Brook

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Gillian P. Yee (P68972)

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Dated: June 28, 2011

CERTIFICATE OF SERVICE

I hereby certify that on June 28, 2011, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to all ECF participants. I further certify that I will serve a copy of such filing on any non-ECF participants as necessary: Victor J. Mastromarco, Jr., 1024 North Michigan Avenue, Saginaw, MI 48602.

s/Martin C. Brook

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