

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**CONCRETE BUSTERS OF LOUISIANA, INC. and
WASTE REMEDIATION OF PLAQUEMINES, L.L.C.**

CIVIL ACTION NO. _____

VERSUS

SECTION: _____

**FREDERICK R. HEEBE, ALBERT J. WARD, JR.
RIVER BIRCH INCORPORATED and HWY 90, L.L.C.**

NOTICE OF REMOVAL

**TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF LOUISIANA:**

The Notice of Removal of defendants, Frederick R. Heebe (“Heebe”), Albert J. Ward, Jr. (“Ward”), River Birch Incorporated (“River Birch”) and HWY 90, L.L.C. (“Hwy 90”), through undersigned counsel, removing this action from the Civil District Court for the Orleans Parish, State of Louisiana, and to the extent required, reserving any and all rights, objections, defenses and exceptions, respectfully represents as follows:

1. This Notice of Removal is filed pursuant to 28 U.S.C. §§ 1441(a), 1446, 1331 and 1367(a).

2. On or about February 25, 2011, plaintiffs filed their Petition for Damages (the “Petition”) in the action entitled *Concrete Busters of Louisiana, Inc., et al v. Frederick R. Heebe, et al*, bearing docket number 11-2129, Div. “D-16,” on the docket of the Civil District Court for the Parish of Orleans, State of Louisiana.

3. The Petition asserted various claims against defendants arising under Louisiana law.

4. On or about October 6, 2012, Heebe received a copy of plaintiffs’ Amending Petition for Damages (the “Amended Petition”).

5. On or about October 6, 2012, Ward received a copy of the Amended Petition.

6. On or about October 6, 2012, River Birch received a copy of the Amended Petition.

7. On or about October 6, 2012, Hwy 90 received a copy of the Amended Petition.

8. The Amended Petition, among other things, added claims against defendants under the Racketeer Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. § 1961 *et seq.*

9. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331 in that the RICO claims arise under the laws of the United States. Moreover, the Court has supplemental jurisdiction over all state law claims pursuant to 28 U.S.C. § 1367(a). Accordingly, the entire action is removable pursuant to 28 U.S.C. §1441(a). *City of Chicago v. Int’l Coll. of Surgeons*, 522 U.S. 156, 164, 118 S. Ct. 523, 529, 139 L. Ed. 2d 525 (1997).

10. Pursuant to 28 U.S.C. § 1441(a), the United States District Court for the Eastern District of Louisiana is the federal district court for the district and division embracing the place where the state court suit is pending.

11. Pursuant to 28 U.S.C. § 1446(b)(3), this Notice of Removal is being filed within thirty days of receipt by the defendants of a copy of an amended pleading from which it may first be ascertained that the case is one which has become removable.

12. Pursuant to 28 U.S.C. § 1446(b)(2)(A), all defendants join in and consent to the removal of the action.

13. Pursuant to 28 U.S.C. § 1446(d), all adverse parties are being provided with written notice of the filing of this Notice of Removal.

14. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being filed with the Clerk of the Civil District Court for the Parish of Orleans, State of Louisiana.

15. Pursuant to 28 U.S.C. § 1446(a), attached hereto are copies of all process, pleadings, and orders served upon defendants. *See* Exhibit “1.”

WHEREFORE, defendants, Frederick R. Heebe, Albert J. Ward, Jr., River Birch Incorporated and HWY 90, L.L.C. remove the matter of *Concrete Busters of Louisiana, Inc., et al v. Frederick R. Heebe, et al*, case number 11-2129, Div. “D-16,” Civil District Court, Orleans Parish, Louisiana, to this Court.

/s/ William P. Gibbens
Kyle Schonekas, 11817
Joelle F. Evans, 23730
William P. Gibbens, 27225
SCHONEKAS, EVANS, McGOEY &
McEACHIN, L.L.C.
650 Poydras Street, Suite 2105
New Orleans, Louisiana 70130
Telephone: (504) 680-6050
Facsimile: (504) 680-6051
kyle@semmlaw.com
joelle@semmlaw.com
billy@semmlaw.com

/s/ Robert N. Habans, Jr.
Robert N. Habans, Jr., 06395
HABANS & CARRIERE
10843 N. Oak Hills Parkway
Baton Rouge, Louisiana 70810
Telephone: (225) 757-0225
Facsimile: (225) 757-0398
bobhab@bellsouth.net

Attorney for Albert J. Ward, Jr.

Attorneys for Frederick R. Heebe

/s/ Edward J. Castaing

Edward J. Castaing (Bar #4022)
CRULL, CASTAING, & HERMAN
601 Poydras St., Suite 2323
New Orleans, Louisiana 70130
Telephone: 504-581-7700
Facsimile: 504-581-5523

Attorneys for River Birch, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on October 25, 2012, I electronically filed the foregoing pleading with the Clerk of Court using the CM/ECF system which will send a notice of electronic filing to all counsel of record.

/s/William P. Gibbens

WILLIAM P. GIBBENS