

Exhibit A. State Court File

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NO. _____

10/17/2024 09:54:51

JEFFERSON CIRCUIT COURT

DIVISION

90266-2
Filed Electronically

Tabitha Holt

PLAINTIFF

v.

Asset Acceptance, LLC

DEFENDANT

Serve:

Midland Credit Management, Inc.
4801 Olympia Park Plaza, Suite 4200
Louisville, KY 40241

CLASS ACTION COMPLAINT and DEMAND FOR JURY TRIAL**INTRODUCTION**

1. This is an action by Plaintiff Tabitha Holt as an individual Kentucky consumer and on behalf of a class of similarly situated Kentucky consumers against Defendant Asset Acceptance, LLC for its violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692 *et seq.*

Plaintiff individually on behalf of herself seeks actual damages, statutory damages, court costs, and attorney fees against Defendant. Plaintiff also seeks to be appointed as class representative to represent and seek actual damages, statutory damages, court costs and attorney fees on behalf of a proposed class of Kentucky citizen consumers similarly situated as Plaintiff.

JURISDICTION and VENUE

2. Jurisdiction of this court arises under 28 U.S.C. §1331 and 15 U.S.C. §1692k. Venue is proper because the nucleus of relevant facts and events giving rise to Plaintiff's claims occurred in Jefferson County, Kentucky, which is located within this Circuit.

Presiding Judge: HON. ERIC J. HANER (630420)

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PARTIES

3. Plaintiff Tabitha Holt, formerly known as Tabitha Mefford, is a natural person who⁹⁰²⁶⁶⁻² resides in Jefferson County, Kentucky and a “consumer” within the meaning of the FDCPA as defined at 15 U.S.C. § 1692a(3).

4. Defendant Asset Acceptance, LLC (“Asset Acceptance”) is a Delaware limited liability company registered with the Kentucky Secretary of State whose principal place of business is located at 320 E. Big Beaver Road, Suite 300, Troy, MI 48083.

5. Asset Acceptance is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a(6) inasmuch as it regularly collects consumer individual debts of natural persons who are citizens of Kentucky using instrumentalities of interstate commerce or the mails in its business, the principal purpose of which is the collection of debts.

STATEMENT OF FACTS

6. In 2008, Plaintiff Tabitha Holt, formerly known as Tabitha Mefford (“Holt”), opened a credit card account (the “Account”) originated by L&N Federal Credit Union (“L&N”).

7. Ms. Holt used the L&N Account for personal, family and/or household purposes, making the debt that arose out of the L&N Account a “debt” within the meaning of the FDCPA.

8. Ms. Holt subsequently defaulted on the L&N Account, and in 2010 L&N sold the debt arising out of the L&N Account to Defendant Asset Acceptance, LLC (“Asset Acceptance”).

9. On February 28, 2014, Asset Acceptance filed the case of *Asset Acceptance, LLC v. Tabitha Mefford* in the Jefferson District Court of Jefferson County, Kentucky under case number 14-C-002282 (the “State Court Lawsuit”).

10. Asset Acceptance subsequently moved for default judgment and on July 28, 2014 the Jefferson District Court entered a default judgment in the State Court Lawsuit (the “Default

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Judgment”). A true and accurate copy of the Default Judgment is attached hereto as Exhibit “A.”

11. The Default Judgment awarded Asset Acceptance a principal amount of \$4,865.14, plus accrued pre-judgment interest of \$1,548.00, plus pre-judgment interest at the rate of 8% per annum from June 30, 2014 to July 28, 2014 plus interest from the date of judgment at the rate of 12.00% per annum, which was the statutory rate of interest on judgments under Kentucky law (KRS 360.040) as was then in effect on July 28, 2014.

12. On August 1, 2024, Asset Acceptance filed a Wage Garnishment in the State Court Lawsuit (the “Garnishment”) and served same on Ms. Holt’s employer. A true and accurate copy of the Garnishment is attached as Exhibit “B.”

13. The Garnishment stated, and represented to Ms. Holt’s employer, that a total amount of \$14,174.78 was due and owing on the judgment as of the date of the Garnishment, “plus interest at 12% from July 28, 2024.”

14. The amount of \$14,174.78 represents the principal sum of \$4,865.14, plus pre-judgment interest of \$1,577.86, plus simple interest at the statutory rate of 12% per annum accruing on the total judgment amount of \$6,443.00, pursuant to KRS 360.040 from the date of the Default Judgment to the date of the Garnishment.

15. The Kentucky rate of statutory post-judgment interest awarded in a judgment is set by the Kentucky Legislature by KRS 360.040, and any change of that rate affects prior existing unsatisfied judgments on the effective date of an amendment and interest thereafter accrues at the new rate set by the Legislature on all such unsatisfied judgments from the date of the amendment of KRS 360.040 forward. *Ridge v. Ridge*, 572 S.W.2d 859, 861 (Ky. 1978).

16. On June 29, 2017, KRS 360.040 was amended to reduce the statutory rate of interest on judgments from 12% to 6%.

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17. Calculated correctly at interest of 12% accruing on the total judgment amount of \$6,443.00 from July 28, 2014 to June 28, 2017, and then interest at 6% accruing from June 29, 2017 (the date of amendment of KRS 360.040) to August 1, 2024 (the date of the Garnishment), the amount due and owing on the Default Judgment on the date of the Garnishment would have been \$11,444.00—three thousand dollars *less* than the amount Asset Acceptance actually stated in the Garnishment.

18. Ms. Holt has incurred actual damages related to the Garnishment, including but not limited to loss of use of garnished funds and emotional upset and embarrassment.

19. Asset Acceptance violated multiple sections of the federal FDCPA statute by *inter alia* attempting to collect post-judgment interest at a rate of interest in excess of, and not permitted by, Kentucky law which violations each created a material risk of harm to Plaintiff and the interests of consumers recognized by Congress and which it sought to protect by enacting the FDCPA.

20. Asset Acceptance has, within the past year prior to the filing of this Complaint, collected or attempted to collect statutory post-judgment interest awarded pursuant to KRS 360.040 in judgments from numerous Kentucky consumers without modifying the interest on the judgment to reflect the reduction of the statutory rate to 6% on June 29, 2017.

INDIVIDUAL CLAIMS FOR RELIEF

21. The foregoing acts and omissions of Defendant Asset Acceptance, LLC as to Plaintiff Tabitha Holt (“Holt”), individually constitute violations of the FDCPA which violations include, but are not limited to:

A. Violation of 15 U.S.C. §1692e by attempting to collect statutory post-judgment interest from Ms. Holt at a rate in excess of that allowed by Kentucky law, thereby using false, deceptive, or misleading representation or means in an attempt to collect a debt;

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- B. Violation of 15 U.S.C. §1692e(2)(A)** by attempting to collect statutory post-judgment interest from Ms. Holt at a rate in excess of that allowed by Kentucky law, thereby falsely representing the status of a debt;
- C. Violation of 15 U.S.C. §1692e(5)** by attempting to collect statutory post-judgment interest from Ms. Holt at a rate in excess of that allowed by Kentucky law, thus taking an action against Plaintiff that it could not legally take in an attempt to collect a debt;
- D. Violation of 15 U.S.C. §1692e(10)** by attempting to collect statutory post-judgment interest from Ms. Holt at a rate in excess of that allowed by Kentucky law, thus using a false representation or deceptive means to attempt to collect a debt;
- E. Violation of 15 U.S.C. §1692f** by attempting to collect statutory post-judgment interest from Ms. Holt at a rate in excess of that allowed by Kentucky law, thereby using unfair or unconscionable means to attempt to collect a debt.
- F. Violation of 15 U.S.C. §1692f(1)** by attempting to collect statutory post-judgment interest from Ms. Holt at a rate in excess of that allowed by Kentucky law, thereby collecting or attempting to collect amounts not expressly authorized by the agreement creating the debt or permitted by law.

CLASS ALLEGATIONS

22. Plaintiff Tabitha Holt incorporates all paragraphs pleaded *supra* as if fully restated and set out hereinafter.

23. Plaintiff pursuant to Fed. R. Civ. P. 23 hereby files a proposed class action complaint as the proposed class action representative against Defendant Asset Acceptance, LLC (“Asset Acceptance”) on behalf of classes of all persons in the Commonwealth of Kentucky similarly situated to Plaintiff comprised of the following persons:

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CLASS:

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24. All Kentucky persons/consumers who:
- A. Have a judgment entered against them in any District or Circuit Court of the Commonwealth of Kentucky prior to June 29, 2017 in favor of Asset Acceptance, LLC for claims arising out of a “debt” within the meaning of the FDCPA in which the judgment awards the judgment creditor statutory post-judgment interest pursuant to KRS 360.040; and
- B. Asset Acceptance, LLC collected or attempted to collect statutory post-judgment interest pursuant to KRS 360.040 from the consumer pursuant to the judgment entered against the consumer accrued after June 29, 2017 at a rate in excess of 6% per annum.
25. The proposed Class as set out *supra* and represented by Plaintiff Tabitha Holt in this action, of which she herself is a member, consists of those persons as defined and of which the members of the proposed Class are so numerous that joinder as parties of individual members is impracticable.
26. Plaintiff’s claims are typical of the claims of the proposed Class as set out *supra*.
27. There are common questions of law and fact applicable to the members of the proposed Class in this action that relate to and affect the rights of each member of the proposed Class, and the relief sought is common to the entirety of the proposed Class because all members of the proposed Class have the same issues of law in common as alleged *supra*.
28. There is no known conflict between Plaintiff and any other members of the proposed Class with respect to this action, or with respect to the claims for relief herein set forth.
29. Plaintiff is the representative party for the proposed Class and is able to and will

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fairly and adequately protect the interest of each of the proposed Class.

30. Plaintiff's attorney is experienced and capable in the field of consumer rights, including violations of the FDCPA and other consumer rights statutes such as the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. §1681 *et seq.*

31. Plaintiff's attorney has successfully represented other claimants in similar litigation.

32. The action is properly maintained as a class action in that the prosecution of separate actions by individual members of the proposed Class would create a risk that individual adjudications could be dispositive of the interests of other members not a party to such adjudication or could substantially impair or impede their ability to protect their interest.

33. This action is properly maintained as a class action because the prosecution of separate actions by individual members of the proposed Class would create risk of varying individual adjudications, which would establish incompatible standards of conduct for Defendants.

34. This action is properly maintained as a class action inasmuch as the questions of law and fact common to the proposed class members predominate over any questions affecting only individual members; a class action is superior to other methods available for the efficient adjudication of the controversy; the relief sought by all members of the proposed Class will be effective and appropriate for the entirety of each proposed class; and all members of the proposed Class have a right to damages or other relief that may be readily computed in each case or otherwise readily determined.

35. The identity of each individual member of the proposed Class can be ascertained from the books and records maintained by Defendants.

36. Because many of the persons who comprise the proposed Class in this case may

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not be aware of their rights, or may not be in a financial position to readily assert their rights, and because relegation of their claims to individual actions would result in an unreasonable multiplicity of suits and a corresponding burden on this and other courts, a class action is far superior to all other methods for a fair and efficient adjudication of this controversy.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff Tabitha Holt requests that the Court grant her and all members of the Class relief as follows:

1. Award Plaintiff and all members of the Class the maximum statutory damages pursuant to 15 U.S.C. §1692k for Defendant's violations of the FDCPA;
2. Award Plaintiff and all members of the Class their actual damages for Defendant's violations of the FDCPA;
3. Award Plaintiff and all members of the Class their reasonable attorney's fees and costs pursuant to the FDCPA;
4. A trial by jury; and
5. Such other relief as the Court and law make Plaintiff and the members of the Class entitled.

Submitted by:

/s/ James R. McKenzie
James R. McKenzie, KBA 81957
James R. McKenzie Attorney, PLLC
115 S. Sherrin Ave. Suite 5
Louisville, KY 40207
Tel: (502) 371-2179
Fax: (502) 257-7309
E-mail: jmckenzie@jmckenzielaw.com

Presiding Judge: HON. ERIC J. HANER (630420)

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Filed

24-CI-006862 09/25/2024

David L. Nicholson, Jefferson Circuit Clerk

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EXHIBIT
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Filed

24-CI-006862 09/25/2024

David L. Nicholson, Jefferson Circuit Clerk

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24-CI-006862 09/25/2024

David L. Nicholson,

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JEFFERSON DISTRICT COURT
DIVISION 2

2024 J 9 10 49

PLAINTIFF

8:52:29 AM

DEFENDANT

JUDGMENT

On Motion by the Plaintiff, and the above-captioned Defendant having been served with process, and having failed to plead or otherwise defend, it is adjudged by the Court that the Plaintiff recover of the Defendant the sum of \$4,865.14, plus accrued interest of \$1,548.00 through June 30, 2014, with interest thereon at the rate of 8% per annum from June 30, 2014 through the date of Judgment, all bearing interest at the rate of 12% per annum from the date of Judgment, plus costs expended herein, until the Judgment is satisfied. There being no just reason for delay, this Judgment is final and appealable.

David L. Nicholson
JUDGE

DATE

TENDERED BY:

Scott Blum
Katie Lloyd
Megan Urban
W. Anderson Woodford
LLOYD & McDANIEL, PLC
Attorneys for Plaintiff
P.O. Box 23200
Louisville, KY 40223-0200
(502) 585-1880
C34535/PM/DJ/SM
C34535

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10/17/2024

* X3
ENTERED IN COURT
DAVID L. NICHOLSON, CLERK
JUL 23 2024
BY DEPT. CLERK

Filed

24-CI-006862 09/25/2024

David L. Nicholson, Jefferson Circuit Clerk

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EXHIBIT

B

Presiding Judge: HON. ERIC J. HANER (630420)

EXH : 000001 of 000002

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AOC-150 Rev. 7-09	Doc Code: GAG		Case No. <u>14-C-002282</u> <u>90266-2</u>
Commonwealth of Kentucky Court of Justice www.courts.ky.gov			Court <u>JEFFERSON DISTRICT COURT</u>
KRS 425.501-425.506; CR 69.02		ORDER OF WAGE GARNISHMENT (CONTINUOUS OR AS DESIGNATED)	County <u>DIVISION 2</u>

JUDGMENT DEBTOR:

JUDGMENT CREDITOR ABET ACCEPTANCE, LLC

TABIHA MEFFORD

Amount Due: \$14,174.78

Plus interest at 12% from July 18, 2024

Probable Court Costs: \$15.00

Judgment Date:

July 28, 2014

Creditor's Attorney:

Richard Alphon (55336) Joshua A. De Russo (55877)
 Katie Carbone (34442) Eric Spagnuolo (50605)
 W. Anderson Woodford (53423)
 Alexander Vervelli (50305)
 LLOYD & MCDANIEL, PLC
 P.O. Box 23200 | Louisville, KY 40223-0200
 Toll Free: 866.563.1880 | Fax: 502.585.3054

SEE REVERSE OF THIS ORDER FOR ADDITIONAL REQUIREMENTS AND INSTRUCTIONS.

David L. Nicholson Court Clerk, by: JH

D.C. 8/1/2024
(Date)

Garnishee (Employer):

IMPORTANT NOTICE TO THE ABOVE JUDGMENT DEBTOR: THE JUDGMENT CREDITOR IS GARNISHING A PORTION OF YOUR WAGES TO PAY A JUDGMENT ENTERED AGAINST YOU IN THE ABOVE COURT. YOU MAY HAVE A RIGHT TO RECOVER ALL OR PART OF THE MONEY YOUR EMPLOYER HAS WITHHELD FROM YOUR PAY. CAREFULLY REVIEW THIS FORM AND YOUR NOTICE OF RIGHTS TO ASSERT EXEMPTION TO WAGE GARNISHMENT YOU PREVIOUSLY RECEIVED. CLOSELY EXAMINE YOUR EMPLOYER'S CALCULATIONS REGARDING ANY WITHHOLDING PURSUANT TO THIS GARNISHMENT. IF YOU BELIEVE THAT YOUR EMPLOYER HAS WITHHELD TOO MUCH MONEY FROM YOU, GO TO THE OFFICE OF THE CIRCUIT CLERK WHICH ISSUED THIS GARNISHMENT WITHIN 13 DAYS OF THE DATE ON THE PAYROLL CHECK YOU RECEIVED FROM WHICH MONEY WAS WITHHELD PURSUANT TO THIS GARNISHMENT AND COMPLETE AN "AFFIDAVIT TO CHALLENGE GARNISHMENT".

LM/C345335/Lloyd & McDaniel, PLC

AFFIDAVIT AND ANSWER OF GARNISHEE (EMPLOYER)

Comes the undersigned Affiant, who after being duly sworn, states:



Commonwealth of Kentucky

David L. Nicholson, Jefferson Circuit Clerk

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10/17/2024 09:57:09

Case #: 24-CI-006862

Envelope #: 8902612

Received From: JAMES MCKENZIE

Account Of: JAMES MCKENZIE

90266-2

Case Title: HOLT, TABITHA VS. ASSET ACCEPTANCE, LLC Confirmation Number: 188787071

Filed On 9/25/2024 1:45:09PM

#	Item Description	Amount
1	Access To Justice Fee	\$20.00
2	Money Collected For Others(Court Tech. Fee)	\$20.00
3	Money Collected For Others(Postage)	\$18.10
4	Money Collected For Others(Attorney Tax Fee)	\$5.00
5	Library Fee	\$3.00
6	Civil Filing Fee	\$150.00
7	Charges For Services(Copy - Photocopy)	\$1.40
8	Charges For Services(Jury Demand / 12)	\$70.00
TOTAL:		\$287.50

AOC-E-105 Sum Code: CI
Rev. 9-14



Commonwealth of Kentucky
Court of Justice Courts.ky.gov

CR 4.02; Cr Official Form 1

Case #: **24-CI-006862** NOT ORIGINAL

Court: **CIRCUIT**

County: **JEFFERSON Circuit**

10/17/2024 09:56:29
90266-2

CIVIL SUMMONS

Plaintiff, HOLT, TABITHA VS. ASSET ACCEPTANCE, LLC, Defendant

TO: **ASSET ACCEPTANCE, LLC**
C/O MIDLAND CREDIT MANAGEMENT, INC.
4801 OLYMPIA PARK PLAZA, SUITE 4200
LOUISVILLE, KY 40241

The Commonwealth of Kentucky to Defendant:

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

Davis L. Nicholson

Jefferson Circuit Clerk

Date: **9/25/2024**

Proof of Service

This Summons was:

☐ Served by delivering a true copy and the Complaint (or other initiating document)

To: _____

☐ Not Served because: _____

Date: _____, 20____

Served By

Title

Summons ID: @00001080024
CIRCUIT: 24-CI-006862 Certified Mail
HOLT, TABITHA VS. ASSET ACCEPTANCE, LLC





UNITED STATES
POSTAL SERVICE™

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10/17/2024 09:58:04

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Date Produced: 09/30/2024

The following is the delivery information for Certified Mail™/RRE/RD item number 9236 0901 9403 8379 6000 90. Our records indicate that this item was delivered on 09/27/2024 at 09:47 a.m. in LOUISVILLE, KY 40241. The scanned image of the recipient information is provided below.

Signature of Recipient :

Address of Recipient :

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

This USPS proof of delivery is linked to the customers mail piece information on file as shown below:

ASSET ACCEPTANCE, LLC
C/O MIDLAND CREDIT MANAGEMENT, INC.
4801 OLYMPIA PARK PLAZA, SUITE 4200
LOUISVILLE KY 40241

Filed

24-CI-006862

09/30/2024

David L. Nicholson, Jefferson Circuit Clerk

USPS MAIL PIECE TRACKING NUMBER: 420402419236090194038379600090

MAILING DATE: 09/25/2024

DELIVERED DATE: 09/27/2024

Custom 1: DriverId-8902612

Custom 2: PartyId-59080301

Custom 3: SummonsNum-@00001080024

Custom 4: CentralMailId-183258

Custom 5: Source County-JEFFERSON Circuit

NOT ORIGINAL

10/17/2024 09:58:04

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MAIL PIECE DELIVERY INFORMATION:

ASSET ACCEPTANCE, LLC
C/O MIDLAND CREDIT MANAGEMENT, INC.
4801 OLYMPIA PARK PLAZA, SUITE 4200
LOUISVILLE KY 40241

MAIL PIECE TRACKING EVENTS:

09/25/2024 15:01 PRE-SHIPMENT INFO SENT USPS AWAITS ITEM

09/25/2024 15:54 SHIPMENT RECEIVED ACCEPTANCE PENDING

09/25/2024 23:53 ORIGIN ACCEPTANCE

09/26/2024 01:08 PROCESSED THROUGH USPS FACILITY

09/27/2024 09:47 DELIVERED FRONT DESK/RECEPTION/MAIL ROOM

FRANKFORT,KY 40601

FRANKFORT,KY 40601

FRANKFORT,KY 40601

LOUISVILLE KY DISTRIBUTION CENT 40231

LOUISVILLE,KY 40241

Filed

24-CI-006862

09/30/2024

David L. Nicholson, Jefferson Circuit Clerk

COR : 000002 of 000002



24-CI-006862

HOLT, TABITHA VS. ASSET ACCEPTANCE, LLC**JEFFERSON CIRCUIT COURT**Filed on **09/25/2024** as **CONTRACT - OTHER** with **HON. ERIC J. HANER******** NOT AN OFFICIAL COURT RECORD ******

Case Memo		24-CI-006862
CONTRACT-OTHERjury fee paid		
Parties		24-CI-006862
ASSET ACCEPTANCE, LLC as DEFENDANT / RESPONDENT		
Address C/O MIDLAND CREDIT MANAGEMENT, INC. 4801 OLYMPIA PARK PLAZA, SUITE 4200 LOUISVILLE KY 40241		
Summons CIVIL SUMMONS issued on 09/25/2024 served / recalled on 09/27/2024 by way of CERTIFIED MAIL 9236090194038379600090Successful		
HOLT, TABITHA as PLAINTIFF / PETITIONER		
Address C/O JAMES R. MCKENZIE ATTORNEY, PLLC 115 S. SHERRIN AVENUE, SUITE 5 LOUISVILLE KY 40207		
MCKENZIE, JAMES ROBERT as ATTORNEY FOR PLAINTIFF		
Address JAMES R. MCKENZIE ATTORNEY, PLLC 115 S. SHERRIN AVENUE, SUITE 5 LOUISVILLE KY 40207		
Documents		24-CI-006862
COMPLAINT / PETITION filed on 09/25/2024		
EXHIBIT filed on 09/25/2024		
EXHIBIT filed on 09/25/2024		
Images		24-CI-006862
COMPLAINT / PETITION filed on 09/25/2024 Page(s): 8		
EXHIBIT filed on 09/25/2024 Page(s): 2		
EXHIBIT filed on 09/25/2024 Page(s): 2		
SUMMONS filed on 09/25/2024 Page(s): 1		
COURTESY FINANCIAL TRANSACTION REPORT filed on 09/25/2024 Page(s): 1		
SUMMONS - RETURN OF SERVICE filed on 09/30/2024 Page(s): 2		

****** End of Case Number : 24-CI-006862 ******