

MONROE COUNTY CLERK'S OFFICE

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Instrument: EFILING INDEX NUMBER

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Date: 12/08/2023

Time: 4:43:14 PM

Return To:
STEVEN ZAKHARYAYEV
10 W37th Street, RM 602
New York, NY 10018

FAMILY FUNDING GROUP LLC

MCINERNEY CONSULTING INC. DBA CASTLE
COLLISION CENTER
MCINERNEY, PATRICK

State Fee Index Number	\$165.00	
County Fee Index Number	\$26.00	
State Fee Cultural Education	\$14.25	
State Fee Records Management	\$4.75	Employee: JR
Total Fees Paid:	\$210.00	

State of New York

MONROE COUNTY CLERK'S OFFICE
WARNING – THIS SHEET CONSTITUTES THE CLERKS
ENDORSEMENT, REQUIRED BY SECTION 317-a(5) &
SECTION 319 OF THE REAL PROPERTY LAW OF THE
STATE OF NEW YORK. DO NOT DETACH OR REMOVE.

JAMIE ROMEO

MONROE COUNTY CLERK



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

FAMILY FUNDING GROUP LLC,

Plaintiff,

-against-

MCINERNEY CONSULTING INC. DBA CASTLE
COLLISION CENTER and PATRICK MCINERNEY,

Defendant(s).

Index No. _____

SUMMONS

To the above-named Defendant(s):

YOU ARE HEREBY SUMMONED and required to serve upon Plaintiff's attorney an answer to the complaint in this action within twenty days after the service of this summons, exclusive of the day of service, or within thirty days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to answer, judgment will be taken against you by default for the relief demanded in the annexed complaint.

Plaintiff designates MONROE County as the place of trial. The basis of the venue is designated in the Agreement between the parties.

Dated: December 7, 2023
New York, NY

By: /s/ Steven Zakharyayev
Steven Zakharyayev, Esq.
10 W 37th Street, RM 602
New York, NY 10018
(201) 716-0681
Attorneys for Plaintiff

TO DEFENDANT(S):

MCINERNEY CONSULTING INC. DBA CASTLE COLLISION CENTER
175 N ARLINGTON HEIGHTS RD, ELK GROVE IL 60007

PATRICK MCINERNEY
4015 TORONTO CT, HANOVER PARK IL 60133

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE**

FAMILY FUNDING GROUP LLC

Plaintiff,

-against-

MCINERNEY CONSULTING INC. DBA CASTLE
COLLISION CENTER **and** PATRICK MCINERNEY,

Defendant(s).

X

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VERIFIED COMPLAINT

X

Plaintiff, FAMILY FUNDING GROUP LLC, by its attorney Steven Zakharyayev, Esq.
as and for its complaint against Defendant(s) herein, alleges as follows:

1. Plaintiff FAMILY FUNDING GROUP LLC ("Plaintiff") is a New York limited liability company engaged in the receivable financing business.
2. Upon information and belief, MCINERNEY CONSULTING INC. DBA CASTLE COLLISION CENTER ("Defendant-Seller") is a foreign corporation.
3. Defendant PATRICK MCINERNEY ("Defendant-Guarantor") is an individual residing in the State of ILLINOIS and upon information and belief is a principal of defendant-seller.
4. Pursuant to a receivable purchase agreement and personal guaranty dated JULY 13, 2023 (the "Agreement"), Plaintiff purchased a percentage of the Defendant-Seller's total future accounts receivable up to the sum of \$53,200.00 ("Purchased Amount") in exchange for an upfront purchase price of \$35,000.00 ("Purchase Price") A copy of the merchant agreement is attached as EXHIBIT A.
5. The Agreement contains the parties' express consent to the jurisdiction of the courts located in the State of New York.

6. Pursuant to the Agreement, Plaintiff was authorized to collect via an ACH electronic debit of the Future Receivables, until such time that Plaintiff collected the total amount of purchased receivables.
7. Critical to facilitating this transaction, the Agreement contains Defendant-Seller's express covenant not to revoke its ACH authorization to Plaintiff or otherwise take any measure to interfere with Plaintiff's ability to collect the Future Receivables.
8. Contrary to Defendant-Seller's express covenant set forth above, Defendant-Seller materially breached the terms of the Agreement on October 27, 2023 by changing the designated bank account without Plaintiff's authorization, by placing a stop payment on Plaintiff's debits to the account or by otherwise taking measures to interfere with Plaintiff's ability to collect the Future Receivables. A copy of the remittance history is attached as EXHIBIT B.

AS AND FOR A FIRST CAUSE OF ACTION
(Breach of Contract as to Defendant-Seller)

9. The Agreement provides that Defendant-Seller shall be in default of the Agreement if, *inter alia*, it breaches any covenants contained therein or makes any representation or warranty proving to have been incorrect, false or misleading in any material respect.
10. As a result of Defendant-Seller's breach of the provisions set forth above, Defendant-Seller has defaulted under the Agreement.
11. Pursuant to the Agreement, in the event of Defendant-Seller's default, Plaintiff may declare the total amount of receivables purchased and not delivered as immediately due and owing to Plaintiff, including costs and fees. Plaintiff now has a balance of \$27,663.00 in undelivered Future Receivables.
12. Subtracting the amount of receivables Plaintiff has previously collected from Defendant-Seller under the Agreement from the total Future Receivables purchased by Plaintiff, there is presently due and owing from Defendant-Seller to Plaintiff the amount of \$27,663.00 with interest thereon from October 27, 2023.

AS AND FOR A SECOND CAUSE OF ACTION
(Breach of Guaranty as to Defendant-Guarantor)

13. The Agreement contains Defendant-Guarantor's separately executed and unconditional guarantee of payment in the event of default under the Agreement by Defendant-Seller ("Guaranty").
14. As a result of Defendant-Seller's breach and default under the Agreement as set forth above and pursuant to the Guaranty, there is presently due and owing from Defendant-Guarantor to Plaintiff the amount of \$27,663.00 with interest thereon from October 27, 2023.

WHEREFORE, Plaintiff demands judgment against defendants on the respective causes of action in the amount of \$27,663.00, plus interest from October 27, 2023 and costs and attorneys' fees, for such other and further relief as this Court may deem just and proper.

Dated: December 7, 2023
New York, NY

By: /s/ Steven Zakharyayev
STEVEN ZAKHARYAYEV, ESQ
10 W 37th Street, RM 602
New York, NY 10018
(201) 716-0681
Attorneys for Plaintiff

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

FAMILY FUNDING GROUP LLC,

Plaintiff,

-against-

MCINERNEY CONSULTING INC. DBA CASTLE
COLLISION CENTER and PATRICK MCINERNEY,

Defendant(s).

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VERIFICATION BY A PARTY

STATE OF NEW YORK)

COUNTY OF NEW YORK)

Ariel Ilyabayev, being duly sworn, hereby deposes and states the following:

I am a(n) AUTHORIZED REPRESENTATIVE of FAMILY FUNDING GROUP LLC in the within action. I have read the foregoing Verified Complaint and know the contents thereof; the same is true to my own knowledge, except as to matters therein stated to be alleged on information and belief, and as to those matters, I believe them to be true.

The foregoing statements are true under penalties of perjury.

Ariel Ilyabayev
Ariel Ilyabayev

ACKNOWLEDGEMENT

STATE OF Florida)
):
COUNTY OF Miami-Dade)

On December 7 2023, The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization by Ariel Ilyabayev who is personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his representative capacity, and that by his signature on the instrument, he executed the instrument.

