

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

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ALTERNATIVE FUNDING GROUP CORP.,

Plaintiff,

-against-

XTERMINATOR OHIO LLC D/B/A XTERMINATOR
OHIO, MICHAEL WILLIAM CONWAY and THE X-
TERMINATOR,

Defendants.
-----x

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your Answer, or if the Complaint is not served with this Summons, to serve a Notice of Appearance, on the Plaintiff's attorneys within 20 days after service of this Summons, exclusive of the day of service (or within 30 days after the service is completed if this Summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

DATED: Garden City, NY
December 6, 2023

DAVID FOGEL P.C.

s/ David Fogel

David Fogel, Esq.

1225 Franklin Avenue

Suite 201

Garden City, New York 11530

Tel: 516-279-1420

Attorney for Plaintiff

File No.: 16380

DEFENDANTS:

XTERMINATOR OHIO LLC d/b/a XTERMINATOR OHIO

54 N Franklin St

W Jefferson, OH 43162

MICHAEL WILLIAM CONWAY

54 N Franklin St

W Jefferson, OH 43162

THE X-TERMINATOR
54 N Franklin St
W Jefferson, OH 43162

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS-----X
ALTERNATIVE FUNDING GROUP CORP.,

INDEX NO:

Plaintiff,

VERIFIED COMPLAINT

-against-

XTERMINATOR OHIO LLC D/B/A XTERMINATOR
OHIO, MICHAEL WILLIAM CONWAY and THE X-
TERMINATOR,Defendants.
-----X

Plaintiff, by its attorneys, DAVID FOGEL P.C., as and for its complaint herein, alleges against XTERMINATOR OHIO LLC D/B/A XTERMINATOR OHIO, MICHAEL WILLIAM CONWAY and THE X-TERMINATOR (collectively, "Defendants"), the following:

1. At all times hereinafter mentioned, Plaintiff was and still is a corporation authorized to do business in New York
2. At all times hereinafter mentioned, upon information and belief, Defendant XTERMINATOR OHIO LLC D/B/A XTERMINATOR OHIO was and still is a limited liability company, organized under the laws of the State of OH.
3. At all times hereinafter mentioned, upon information and belief, Defendant MICHAEL WILLIAM CONWAY was and still is a resident of the State of OH.
4. At all times hereinafter mentioned, upon information and belief, Defendant THE X-TERMINATOR was and still is a business entity under the laws of the State of OH.

5. Defendants agreed that any action between the parties arising out of the subject contract described hereunder be instituted in any court sitting in New York State and are therefore subject to the jurisdiction of this Court.

AS AND FOR A FIRST CAUSE OF ACTION
(Breach of Contract Against XTERMINATOR OHIO LLC D/B/A XTERMINATOR OHIO)

6. Plaintiff and XTERMINATOR OHIO LLC D/B/A XTERMINATOR OHIO entered into a written contract, dated August 23, 2023 (the "Contract") whereby XTERMINATOR OHIO LLC D/B/A XTERMINATOR OHIO sold to Plaintiff its future receipts having a value of \$28,800.00 ("Receivables") for the sum of \$20,000.00 ("Purchase Price"), which Receivables were to be paid to Plaintiff pursuant to a payment schedule set forth in the Contract.
7. XTERMINATOR OHIO LLC D/B/A XTERMINATOR OHIO agreed that in the event of its default under the Contract, such as the one alleged herein, the full uncollected Receivables plus all fees due under the Contract (as a result of the default) would become immediately due and payable in full to Plaintiff.
8. Upon Plaintiff's receipt of the executed Contract and pursuant to its terms, Plaintiff paid to XTERMINATOR OHIO LLC D/B/A XTERMINATOR OHIO the Purchase Price.
9. On or about November 01, 2023, XTERMINATOR OHIO LLC D/B/A XTERMINATOR OHIO materially breached the terms of the Contract by causing the Receivables to be deposited into a separate account not designated in the Contract, blocked the payment due to Plaintiff so that Plaintiff could not collect

the amount of Receivables due and/or prevented Plaintiff from collecting the amount due to non-sufficient funds or otherwise failed to pay and/or prevented Plaintiff from collecting the amount due pursuant to the payment schedule in the Contract and thereby defaulted under the terms of the Contract or otherwise violated a material term of the Contract which constituted an event of default thereunder.

10. Based upon the foregoing and after accounting for payments made and applicable fees, XTERMINATOR OHIO LLC D/B/A XTERMINATOR OHIO owes Plaintiff a balance in the amount of \$29,985.95.
11. Moreover, pursuant to the Contract, said defendant owes Plaintiff reasonable attorneys' fees in an amount to be determined by the Court.
12. By reason of the foregoing, Plaintiff has been damaged as a result of the above-described default in an amount of no less than **\$29,985.95** with interest thereon from November 01, 2023.

AS AND FOR A SECOND CAUSE OF ACTION
(Breach of Guaranty Against MICHAEL WILLIAM CONWAY)

13. Plaintiff repeats, reiterates and re-alleges each and every allegation contained within the preceding paragraphs as if fully set forth at length herein.
14. Defendant MICHAEL WILLIAM CONWAY executed a Personal Guaranty of Performance of all the obligations of the corporate codefendant set forth in the Contract.
15. By reason of the Guaranty, said Defendant is obliged to pay to Plaintiff the

amount set forth in the preceding cause of action.

AS AND FOR A THIRD CAUSE OF ACTION
(As Against THE X-TERMINATOR)

16. Plaintiff repeats, reiterates and re-alleges each and every allegation contained within the preceding paragraphs as if fully set forth at length herein.

17. Pursuant to the terms of the Contract and the addendum thereto, Defendant MICHAEL WILLIAM CONWAY is affiliated with, owns and/or otherwise controls codefendant(s) THE X-TERMINATOR.

18. Pursuant to the terms of the Contract and its addendum/exhibit, Defendant MICHAEL WILLIAM CONWAY agreed to and did grant Plaintiff a security interest in the assets of THE X-TERMINATOR with respect to the Contract and any breach therein by Defendants.

19. Based on the foregoing, codefendant(s) THE X-TERMINATOR is/are also jointly and severally liable to Plaintiff in the amount set forth above.

WHEREFORE, Plaintiff demands judgment against Defendants, as follows:

- (i) On the first cause of action, against XTERMINATOR OHIO LLC D/B/A XTERMINATOR OHIO, in the amount of **\$29,985.95** with interest from November 01, 2023;
- (ii) On the second cause of action, against MICHAEL WILLIAM CONWAY, in the amount of **\$29,985.95** with interest from November 01, 2023;
- (iii) On the third cause of action, against THE X-TERMINATOR, in the amount of **\$29,985.95** with interest from November 01, 2023;

- (iv) attorney's fees in amount as the Court deems just and proper;
- (v) all together with the costs and disbursements of this action; and
- (vi) any such other and further relief as the Court deems just and proper.

DATED: Garden City, NY
December 6, 2023

DAVID FOGEL P.C.

s/ David Fogel

David Fogel, Esq.

1225 Franklin Avenue

Suite 201

Garden City, New York 11530

Tel: 516-279-1420

Attorney for Plaintiff

File No.: 16380

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS-----X
ALTERNATIVE FUNDING GROUP CORP.,

Plaintiff,

-against-

XTERMINATOR OHIO LLC D/B/A XTERMINATOR
OHIO, MICHAEL WILLIAM CONWAY and THE X-
TERMINATOR,Defendants.
-----X☒ **PLAINTIFF VERIFICATION**STATE OF FL)
COUNTY OF BROWARD) ss.ANTHONY MARQUEZ, being duly sworn, deposes
and says:

I am Managing Partner of Alternative Funding Group Corp., the Plaintiff herein; I have read the foregoing complaint and know the contents thereof; that the same is true to my knowledge except those matters herein stated to be alleged upon information and belief, and as to those matter I believe them to be true. The grounds for my belief as to those matters herein not stated upon my knowledge is based upon the records in my possession.



ANTHONY MARQUEZ

SWORN TO BEFORE ME THIS

7th DAY OF December, 2023

NOTARY PUBLIC☐ **ATTORNEY VERIFICATION**DAVID FOGEL, an attorney duly admitted to practice
before the Court of the State of New York, affirms the
truth of the following under the penalties of perjury:

1. That I am the attorney of record for the Plaintiff with respect to the above-entitled action, and as such I am fully familiar with the facts and circumstances set forth in Plaintiff's annexed complaint. I have read the foregoing complaint and, upon information and belief, know the contents thereof to be true. This verification is made by your deponent rather than by plaintiff because Plaintiff's residence/principal place of business is located in a county other than the county in which my law office is situated.
2. The grounds of my belief include my review of certain of Plaintiff's books and records, and my communications with Plaintiff.

Dated: Garden City, NY
December 6, 2023

DAVID FOGEL P.C.

David Fogel, Esq.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
ALTERNATIVE FUNDING GROUP CORP.,

INDEX NO:

Plaintiff,

-against-

XTERMINATOR OHIO LLC D/B/A XTERMINATOR OHIO, MICHAEL
WILLIAM CONWAY and THE X-TERMINATOR,
Defendants.

-----X

NOTICE OF ELECTRONIC FILING (Mandatory Case)

(Uniform Rule § 202.5-bb)

You have received this Notice because:

- 1) The Plaintiff/Petitioner, whose name is listed above, has filed this case using the New York State Courts E-filing system ("NYSCEF"), and
- 2) You are a Defendant/Respondent (a party) in this case.

• **If you are represented by an attorney:**

Give this Notice to your attorney. (Attorneys: see "Information for Attorneys" pg. 2).

• **If you are not represented by an attorney:**

You will be served with all documents in paper and you must serve and file your documents in paper, unless you choose to participate in e-filing.

If you choose to participate in e-filing, you must have access to a computer and a scanner or other device to convert documents into electronic format, a connection to the internet, and an e-mail address to receive service of documents.

The **benefits of participating in e-filing** include:

- serving and filing your documents electronically
- free access to view and print your e-filed documents
- limiting your number of trips to the courthouse
- paying any court fees on-line (credit card needed)

To register for e-filing or for more information about how e-filing works:

- visit: www.nycourts.gov/efile-unrepresented or
- contact the Clerk's Office or Help Center at the court where the case was filed. Court contact information can be found at www.nycourts.gov

To find legal information to help you represent yourself visit www.nycourthelp.gov

Information for Attorneys (E-filing is Mandatory for Attorneys)

An attorney representing a party who is served with this notice must either:

1) immediately record his or her representation within the e-filed matter on the NYSCEF site www.nycourts.gov/efile; or

2) file the Notice of Opt-Out form with the clerk of the court where this action is pending and serve on all parties. Exemptions from mandatory e-filing are limited to attorneys who certify in good faith that they lack the computer hardware and/or scanner and/or internet connection or that they lack (along with all employees subject to their direction) the knowledge to operate such equipment. [Section 202.5-bb(e)]

For additional information about electronic filing and to create a NYSCEF account, visit the NYSCEF website at www.nycourts.gov/efile or contact the NYSCEF Resource Center (phone: 646-386-3033; e-mail: efile@nycourts.gov).

Dated: December 6, 2023

DAVID FOGEL P.C.

s/ David Fogel

David Fogel, Esq.

Tel: 516-279-1420

legaldocs@dfogelpc.com

File No.: 16380