

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Ali Dahir, *on behalf of himself and
all others similarly situated,*

Court File No. _____
Judge _____

Plaintiff,

vs.

Cresco Capital, Inc. and Lone
Mountain Truck Leasing, LLC,

Defendants.

NOTICE OF REMOVAL

To: Clerk of Court, United States District Court for the District of Minnesota, 300 South Fourth Street, Suite 202, Minneapolis, Minnesota 55415; and Plaintiff Ali Dahir, by and through his attorney of record, Adam R. Strauss, Tarshish Cody, PLC, 6337 Penn Avenue South, Minneapolis, Minnesota 55423.

Please take notice that Defendants Cresco Capital, Inc. (“Cresco”) and Lone Mountain Truck Leasing, LLC (“Lone Mountain”) (collectively, “Defendants”) are removing this action from the District Court, Fourth Judicial District, County of Hennepin, State of Minnesota to the United States District Court for the District of Minnesota by filing this Notice of Removal under 28 U.S.C. § 1446(a) based upon the following grounds:

SUMMONS AND COMPLAINT

1. On June 24, 2021, Defendants received a Summons and Class Action Complaint from Plaintiff Ali Dahir, captioned *Ali Dahir v. Cresco Capital, Inc. and Lone Mountain Truck Leasing, LLC*, captioned for the District Court, Fourth Judicial District, County of Hennepin, State of Minnesota.

2. The attempted service and process of the Summons and Class Action Complaint on June 24, 2021 were deficient under Minn. R. Civ. P. 4.01 because the

Summons did not correctly “state the time within which these rules require the defendant to serve an answer.” The Summons stated incorrect and conflicting deadlines to answer: “If you do not Answer within 20 days, you will lose this case.” Under Minn. R. Civ. P. 12.01, “Defendant shall serve an answer within 21 days after service of the summons upon that defendant unless the court directs otherwise pursuant to Rule 4.043.”

3. For the same reason, the attempted service and process of the Summons and Class Action Complaint were also deficient on June 24, 2021 under Fed. R. Civ. P. (4)(a) because the Summons did not correctly “state the time within which the defendant must appear and defend.” Under Fed. R. Civ. P. 12(a), “[a] defendant must serve an answer . . . within 21 days after being served with the summons and complaint.”

4. Plaintiff perfected service of a corrected Amended Summons and Complaint upon Defendants on July 15, 2021.

5. Pursuant to 28 U.S.C. § 1441(a), the entire state court record, including a copy of the Summons and Complaint, is attached to this Notice of Removal as Exhibit A, as required by 28 U.S.C. § 1446(a).

CLASS ACTION DIVERSITY JURISDICTION

6. Defendants remove this action under 28 U.S.C. § 1441(c) based upon the Court’s original jurisdiction over Plaintiff’s claims under the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. §§ 1332 (a)(1), (d). CAFA grants district courts of the United States original jurisdiction over class actions in which: (1) any member of a putative class is a citizen of a state different from any defendant; (2) the members of the putative class

are over 100 people; and (3) where the amount in controversy for the putative class exceeds \$5 million. *Id.*

7. Minimal diversity exists under CAFA when any plaintiff, or prospective class-member, is a citizen of a different state than any defendant. 28 U.S.C. § 1332(d)(2)(A).

8. Plaintiff is a citizen of Ohio. (Ex. A, Class Action Compl. ¶ 4.) In contrast, Cresco is a citizen of Minnesota and Iowa and Lone Mountain is a citizen of Nevada and Iowa. (*Id.* ¶¶ 4, 5.) Therefore, minimal diversity exists as Plaintiff and the putative class members are citizens of a different state than Defendants.

9. CAFA requires the existence of at least 100 members in Plaintiff's putative class. 28 U.S.C. § 1332(d)(5)(B). Plaintiff alleges the number of members of his putative class exceeds 100. (*Id.* ¶ 112.)

10. Notwithstanding Plaintiff's failure to specifically allege the total amount of monetary relief he seeks individually or on behalf of a putative class, CAFA authorizes the removal of class actions in which the amount in controversy for all potential class members exceeds \$5 million. *See* 28 U.S.C. § 1332(d).

11. “[A] defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 554 (2014). “When the notice of removal plausibly alleges that the class might recover actual damages, punitive damages, and attorneys’ fees aggregating more than \$5 million, ‘then the case belongs in federal court unless it is legally impossible for the plaintiff to recover that much.’” *Pirozzi v. Massage*

Envy Franchising, LLC, 938 F.3d 981, 984 (8th Cir. 2019). “Even if it is highly improbable that the Plaintiffs will recover the amounts Defendants have put into controversy, this does not meet the legally impossible standard.” *Id.*

12. Defendants deny Plaintiff’s claim of wrongdoing, deny the allegations in the Class Action Complaint, deny Plaintiff and the putative class have suffered any damages, and deny that Plaintiff can meet the requirements for class certification. As pled, however, the total amount of actual and statutory damages, attorneys’ fees, and other monetary relief at issue in this action, on an aggregate, class-wide basis, would exceed CAFA’s \$5 million jurisdictional minimum.

13. Plaintiff alleges he “was required to make 44 regular monthly installment payments in the amount of \$1,450” and “was required to pay a down payment of \$5,500,” which totals \$69,300. (Ex. A, Compl. ¶ 31.) Plaintiff further alleges, “Upon a truck driver’s default, Defendants will repossess the driver’s truck. Thereafter, Defendants will sell or lease the truck through its website, AlomstFreeTrucks.com. . . . After Defendants sell or lease the truck, Defendants retain the proceeds. Defendants do not credit the lessee’s account, whether by paying a surplus or reducing any deficiency balance.” (*Id.* ¶¶ 24–25.) Plaintiff also alleges that “Defendants wrongfully retained proceeds from sale of class members’ trucks” and “Defendants wrongfully charged class members a \$2,000 fee.” (*Id.* ¶¶ 96.) Finally, Plaintiff alleges, and has separately demanded, in excess of \$50,000 in damages for his individual claims. (*Id.* ¶¶ 120, 126, 132, 138.)

14. The plaintiff in another pending action filed against Defendants who has alleged similar facts and claims falling within the definitions of Plaintiff’s putative classes

is seeking “damages in an amount exceeding \$50,000.” *Mohamud Abdirizak v. Cresco Capital, Inc. and Lone Mountain Truck Leasing, Inc.*, Case No. 62-cv-20-3112, Compl. 27 ¶ 1.

15. If, as Plaintiff alleges and Defendants deny, the number of members of his putative class exceeds 100; and if, as Plaintiff alleges and Defendants deny, all such members have suffered damages like him in excess of \$50,000; then the amount in controversy for the putative class exceeds \$5 million.

16. Accordingly, because all of the requirements of CAFA are met, Defendants are entitled to remove this action to the United States District Court for the District of Minnesota.

VENUE

17. The District Court, Fourth Judicial District, County of Hennepin, State of Minnesota, is located within the Fourth Division of the United States District Court for the District of Minnesota.

18. This Notice of Removal is therefore properly filed in the United States District Court for the District of Minnesota, which is a proper venue under 28 U.S.C. § 1441(a)

TIMELY AND PROPER NOTICE

19. Defendants timely filed this Notice under 28 U.S.C. § 1446(b) within 30 days after receiving the Summons and Complaint on June 24, 2021, which time period ran until July 26, 2021. Fed. R. Civ. P. 6 (“[I]f the last day is a Saturday, Sunday, or legal holiday,

the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.”).

20. Removal is also timely because Plaintiff did not properly serve Defendants with a corrected Amended Summons and Complaint until July 15, 2021. *See Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 354 (1999) (holding that 30-day time period for removal under 28 U.S.C. § 1446(b) runs from the date of service of the summons).

21. Defendants will promptly serve Plaintiff with a copy of this Notice of Removal and file a Notice of Filing of Notice of Removal with the District Court, Fourth Judicial District, County of Hennepin, State of Minnesota as required by 28 U.S.C. § 1446(d).

CONSENT

22. Defendants consent to removal of this action pursuant to 28 U.S.C. § 1446(b)(2)(a).

RESERVATION OF RIGHTS

23. Defendants are not admitting to any fact, legal conclusion, liability, or damages by filing this Notice. Defendants reserve all of their rights, claims, defenses, and objections to the Complaint, the right to respond to the Complaint in any manner, and amend or supplement this Notice as necessary, including but not limited to their right to challenge Plaintiff’s standing pursuant to Fed. R. Civ. P. 12(b)(1), the Court’s lack of personal jurisdiction over Defendants under Fed. R. Civ. P. 12(b)(2), Plaintiff’s failure to state a claim upon which relief may be granted pursuant to Fed. R. Civ. P. 12(b)(6), and inability to satisfy the requirements for class certification pursuant to Fed. R. Civ. P. 23.

24. If any question arises as to the propriety of the removal of this action, Defendants request the opportunity to brief any disputed issues and to present oral argument in support of its position that this case is properly removable.

CONCLUSION

25. Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendants request that this action be removed from the Fourth Judicial District of Minnesota, County of Hennepin, to the United States District Court for the District of Minnesota, and that all further proceedings be held before this Court.

Dated: July 26, 2021

/s/ R. Henry Pfutzenreuter
R. Henry Pfutzenreuter (0391468)
Larkin Hoffman Daly & Lindgren, Ltd.
8300 Norman Center Drive, Suite 1000
Minneapolis, Minnesota 55437
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EXHIBIT A-1

**STATE OF MINNESOTA
COUNTY OF HENNEPIN**

**DISTRICT COURT
FOURTH JUDICIAL DISTRICT**

<p>Ali Dahir, <i>on behalf of himself and all others similarly situated,</i></p> <p>Plaintiff,</p> <p>vs.</p> <p>Cresco Capital, Inc. and Lone Mountain Truck Leasing, LLC,</p> <p>Defendants.</p>	<p>Court File No. _____ Judge _____</p> <p><u>SUMMONS</u></p>
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THIS SUMMONS IS DIRECTED TO DEFENDANTS ABOVE-NAMED.

1. **YOU ARE BEING SUED.** The Plaintiff has started a lawsuit against you. The Plaintiff's Complaint against you is attached to this summons. Do not throw these papers away. They are official papers that affect your rights. You must respond to this lawsuit even though it may not yet be filed with the Court and there may be no court file number on this summons.

2. **YOU MUST REPLY WITHIN 21 DAYS TO PROTECT YOUR RIGHTS.** You must give or mail to the person who signed this summons a **written response** called an Answer within 21 days of the date on which you received this Summons. You must send a copy of your Answer to the person who signed this summons located at:

Tarshish Cody, PLC
6337 Penn Avenue South
Minneapolis, MN 55423

3. **YOU MUST RESPOND TO EACH CLAIM.** The Answer is your written response to the Plaintiff's Complaint. In your answer you must state whether you agree or disagree with each paragraph of the Complaint. If you believe the Plaintiff should not be given everything asked for in the Complaint, you must say so in your Answer.

4. **YOU WILL LOSE YOUR CASE IF YOU DO NOT SEND A WRITTEN RESPONSE TO THE COMPLAINT TO THE PERSON WHO SIGNED THIS SUMMONS.** If you do not Answer within 20 days, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award the Plaintiff everything asked for in the complaint. If you do not want to contest the claims stated in the complaint, you do not need to respond. A default judgment can then be entered against you for the relief requested in the complaint.

5. LEGAL ASSISTANCE. You may wish to get legal help from a lawyer. If you do not have a lawyer, the Court Administrator may have information about places where you can get legal assistance. **Even if you cannot get legal help, you must still provide a written Answer to protect your rights or you may lose the case.**

6. ALTERNATIVE DISPUTE RESOLUTION. The parties may agree to or be ordered to participate in an alternative dispute resolution process under Rule 114 of the Minnesota General Rules of Practice. You must still send your written response to the Complaint even if you expect use alternative means of resolving this dispute.

TARSHISH CODY, PLC

Dated: June 24, 2021

By: s/ Adam R. Strauss
Adam R. Strauss (#0390942)
ars@attorneysinmn.com
6337 Penn Avenue South
Minneapolis, Minnesota 55423
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ATTORNEYS FOR PLAINTIFF

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

<p>Ali Dahir, <i>on behalf of himself and all others similarly situated</i>,</p> <p>Plaintiff,</p> <p>vs.</p> <p>Cresco Capital, Inc. and Lone Mountain Truck Leasing, LLC,</p> <p>Defendants.</p>	<p>Court File No. _____ Judge _____</p> <p><u>CLASS ACTION COMPLAINT</u></p>
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CLASS ACTION COMPLAINT AND JURY DEMAND

1. Plaintiff Ali Dahir (“Dahir”) brings this class action against Defendants Cresco Capital, Inc. (“Cresco”) and Lone Mountain Truck Leasing, LLC (“Lone Mountain”) alleging violations of Article 9 of the Minnesota Uniform Commercial Code (UCC), Minn. Stat. §§ 336.9-101, *et. seq.*

JURISDICTION AND VENUE

2. Defendants are subject to jurisdiction in Minnesota because they transact business in Minnesota, Cresco is a Minnesota entity, and the events giving rise to the cause of action occurred in Minnesota. Venue is proper in this judicial district pursuant to Minn. Stat. § 542.09 because the claims alleged herein arose in whole or in part in this judicial district.

PARTIES

- 3. Plaintiff Dahir is a natural person and citizen of the State of Ohio.
- 4. Defendant Cresco is a Minnesota corporation with its principal place of business located at 200 Owen Parkway Circle, Carter Lake, IA 51510. Registered Agents Inc. is the registered agent authorized to accept service on behalf of Cresco.

5. Defendant Lone Mountain is a Nevada limited liability company with its principal place of business located at 200 Owen Parkway Circle, Carter Lake, IA 51510. Registered Agents Inc. is the registered agent authorized to accept service on behalf of Lone Mountain.
6. Defendants also have offices at 1256 Trapp Road, Eagan, Minnesota 55121.
7. For all intents and purposes, Lone Mountain is Cresco and Cresco is Lone Mountain.
8. Defendants have the same offices, owners, executives, officers, managers, and many of the same employees.
9. Upon information and belief, employees of Defendants are paid by the same entity.
10. All employees have Lone Mountain email addresses.
11. Employees of Lone Mountain hold themselves out as employees for Cresco.
12. Employees of Cresco hold themselves out as employees for Lone Mountain.
13. Joe Hoovestol is President and CEO of Cresco.
14. Joe Hoovestol is the owner and managing member of Lone Mountain.

NATURE OF THE ACTION

LEASE DISGUISED AS SECURITY AGREEMENT

15. Cresco is the in-house financing arm of Lone Mountain, which sells trucks to truck drivers all over the country.
16. The aim of Defendants' business is to sell trucks to drivers under so-called "lease-to-own" agreements.
17. Lone Mountain represents the following:

Here at Lone Mountain, the price you see advertised is the price you will pay. You make the down payment, the monthly payments, and after that last payment we send you the title to your truck. There's no hidden fees, and no balloon payments at the end.

See How it Works, <https://www.lonemountaintruck.com/truckleasing/> (Jun. 23, 2021, 12:30 pm); *see also* Lone Mountain Truck Leasing, *Lone Mountain Truck Leasing-How It Works*, YOUTUBE (May 14, 2015), <https://youtu.be/bbFNmTUsHkI>.

18. Each time a person purchases a truck from Lone Mountain through the “lease-to-own” program, the financing is completed through Cresco.
19. Cresco uses the same or similar form for each lease agreement.
20. The agreements include a Master Equipment Lease Agreement, a Lease Schedule, a Purchase Obligation Rider, an Acceptance Certificate, and other addendums or schedules.
21. Under every lease agreement from Defendants: (a) the monthly payments under the agreement is an obligation for the entire term of the lease; (b) the obligation under the lease is not subject to termination by the lessee; (c) the lessee is bound to become the owner of the truck; (d) the lessee becomes the owner of the truck for no additional consideration; and (e) the lessee is required to grant a security interest in the truck to secure payment under the lease agreement.
22. The lease agreements used by Defendants are security agreements.
23. Defendants’ lease agreements create a security interest to Defendants.
24. Upon a truck driver’s default, Defendants will repossess the driver’s truck. Thereafter, Defendants will sell or lease the truck through its website, AlmostFreeTrucks.com.
25. After Defendants sell or lease the truck, Defendants retain the proceeds. Defendants do not credit the lessee’s account, whether by paying a surplus or reducing any deficiency balance.

26. At all times relevant to this Complaint, Defendants had a policy of only allowing lessees to redeem their truck if the account balance was paid within ten days after the repossession.

27. At all times relevant to this Complaint, Defendants did not have any policies or procedures in place of providing lessees with the proper notice of the date and time of any public sale of the truck.

FACTUAL ALLEGATIONS
(Experience of the Representative Plaintiff)

28. In 2016, Plaintiff purchased a 2013 Kenworth Truck (the "Truck") from Lone Mountain.

29. In connection with purchasing the Truck, Plaintiff entered into a Master Equipment Lease Agreement (the "Agreement") with Cresco.

30. The Agreement included a Lease Schedule, an Acceptance Certificate, Equipment Schedule, a Purchase Obligation Rider, and other schedules and addendums.

31. Under the terms of the Agreement: (a) Plaintiff obtained a loan from Cresco to finance the purchase of the Truck; (b) Plaintiff granted Cresco a security interest in the Truck to secure repayment of the loan; (c) Plaintiff was required to make 44 regular monthly installment payments in the amount of \$1,450; and (d) Plaintiff was required to pay a down payment of \$5,500.

32. Payments to Cresco are to be made via ACH transfers.

33. The Agreement was a non-cancelable and non-terminable lease for the entire term of the lease.

34. At the end of the lease term, Plaintiff was required to become the owner of the Truck for no additional consideration.

35. The Agreement was executed by Jim Greer on behalf of Cresco.

36. Both Jim Greer and Lone Mountain represent to the public that Jim Greer is an employee of Lone Mountain.

37. The Agreement created a “security interest” under Minn. Stat. § 336.1-203(b) because it provides for: (a) Plaintiff to pay Cresco for the right to possession and use of the Truck; (b) the payment obligation is an obligation for the entire term of the lease; (c) the lease is not subject to termination by Plaintiff; (d) Plaintiff is bound to become the owner of the Truck; and (e) Plaintiff can become the owner of the Truck for no additional consideration.

38. The Agreement is a “security agreement” under Minn. Stat. § 336.9-102(a)(74) because it provides for a security interest to Cresco. Therefore, Cresco is a “secured party” as defined under Minn. Stat. § 336.9-102(a)(73).

39. Upon default under the Agreement, Cresco may accelerate the balance due, charge Plaintiff for liquidated damages, and repossess the Truck. In addition, Cresco may sell or lease the truck and retain the profits.

40. Upon repossession of the Truck, Cresco must provide notice to Plaintiff of any intended sale or lease of the Truck after repossession. Notice to Plaintiff must be sent to Plaintiff by mail.

DEFENDANTS FAIL TO COMPLY WITH THE UCC

41. On June 25, 2020, Defendants: (a) repossessed the Truck for an alleged default of the Agreement; (b) sent a letter to Plaintiff terminating the Agreement; (c) accelerated the loan balance for the Truck; and (d) demanded payment in full.

42. The June 25th letter further stated: (a) Cresco will sell or lease the Truck “within” 10 days following the notice; (b) Cresco will sell or lease the Truck at a private sale; (c) Plaintiff is entitled to an accounting; and (d) Plaintiff could contact his lease manager for an accounting.

43. After sending the June 25th letter, Defendants blocked Plaintiff’s access to the online portal.

44. In the motor vehicle lending industry, lenders often block customers’ access to online features upon default or repossession. The purpose is to force the customer to contact the lender by phone to resolve the outstanding default.

45. On June 26, 2020, Defendants informed Plaintiff that: (a) he needed to pay off the Truck in full; and (b) that the alleged balance was approximately \$6,000.

46. Plaintiff did not owe Defendants \$6,000 on June 26, 2020.

47. Plaintiff requested an accounting in the form of a transaction ledger.

48. On June 30, 2020, Defendants informed Plaintiff that: (a) he needed to pay \$5,992.50 to redeem his Truck; and (b) that Plaintiff needed to pay the alleged balance in full by July 2, 2020.

49. Plaintiff did not owe Defendants \$5,992.50 on June 30, 2020.

50. At all times Defendants demanded payment by wire transfer only.

51. The Agreement allows Plaintiff to pay Defendants via ACH transfers. There is nothing in the Agreement requiring Plaintiff to pay Defendants by wire transfer only.

52. On July 2, 2020, Defendants told Plaintiff that: (a) he needed to wire the full balance by the end of the day in order to redeem his vehicle; (b) if payment was not received by the end of the day, the vehicle would be sold through Defendants’ website; and that (c) if

Plaintiff did not pay the balance, then he could purchase the Truck from Defendants through the website.

53. Plaintiff requested an accounting from Defendants on multiple occasions in order to verify the alleged balance owed.

54. Defendants told Plaintiff to check his online customer portal to retrieve his transaction history.

55. Because Defendants had blocked Plaintiff's access to the online portal, Plaintiff was unable to obtain his transaction history to verify the alleged balance owed.

56. On July 7, 2020, Defendants told Plaintiff that: (a) he could not redeem his Truck; (b) he could purchase the truck through Defendants' website, AlmostFreeTrucks.com; and (c) that the online system was automatic and could not be reversed.

57. Between June 25th through July 7th, Defendants never provided Plaintiff with an accounting.

58. On July 8, 2020, Defendants told Plaintiff that: (a) he could not redeem the Truck; (b) Plaintiff had until July 2nd to come up with the funds; (c) Plaintiff was required to pay in full within 10 days from the date of repossession; (d) the Truck will be sold through Defendants' website; (e) Plaintiff can purchase the truck through Defendants' website when it is listed; and (f) there is nothing Defendants can do to allow Plaintiff to redeem the Truck.

59. On July 8, 2020, Defendants finally provided Plaintiff with an accounting for the Agreement.

60. At all times, Plaintiff demanded that Defendants allow him to redeem his Truck.

61. Plaintiff requested that Defendants provide him the wire instructions to redeem his Truck. Defendants never provided Plaintiff with wire instructions.

62. Between June 26th through July 8th, Plaintiff repeatedly requested information regarding the personal property in his Truck. Defendants never provided Plaintiff with any information.

63. On July 8, 2020, as a result of Defendants' conduct, Plaintiff was forced to hire an attorney.

64. Before Plaintiff retained a lawyer: (a) Defendants refused to allow Plaintiff to redeem the Truck; (b) Defendants refused to provide wire instructions; (c) Defendants demanded an overstated balance of \$5,992.50; (d) Defendants informed Plaintiff that its online system could not reverse a terminated lease; (e) Defendants told Plaintiff that he needed to purchase the Truck back from Defendants; and (f) Defendants refused to provide Plaintiff with information relating to his personal property.

65. On July 9, 2020, Plaintiff, through his counsel, demanded Defendants release the Truck to Plaintiff and allow him to pay the balance.

66. On July 9, 2020, Defendants: (a) allowed Plaintiff to redeem the Truck; (b) provided the wire instructions to Plaintiff's counsel for Plaintiff to redeem the Truck; (c) demanded only \$3,992.50 to redeem the Truck; and (d) provided Plaintiff with all the information concerning Plaintiff's personal property.

67. After Plaintiff retained a lawyer, Defendants' automatic system miraculously reversed the terminated lease.

68. After Plaintiff retained a lawyer, the alleged balance owed miraculously decreased by \$2,000.

69. Upon information and belief, Defendants charge customers a flat \$2,000 fee upon default. Defendants charge the same fee to every customer who defaults on their agreement.

70. There is nothing in Defendants' agreements that allow for a flat \$2,000 fee.

71. At all times Defendants repeatedly put pressure on Plaintiff to pay immediately.

72. At all times after the repossession, Defendants insisted on charging Plaintiff illegal, wrongful, excessive, inflated, and overstated fees, costs, and charges in connection with the Truck.

73. At all times Defendants threatened to sell the Truck if Plaintiff did not pay what Cresco was demanding by July 2, 2020.

74. As a result of Defendants' conduct, Plaintiff had no other choice other than paying off the entire balance of the Truck.

DEFENDANTS' VIOLATIONS OF THE UCC

75. Defendants violated sections 9-610 through 9-612 of the UCC because they did not provide Plaintiff with a notice of disposition within ten days or more prior to the disposition.

76. Contrary to Defendants' June 25th letter, Defendants did not intend to dispose of the Truck via private sale. Instead, Defendants intended to sell the Truck during a public sale through its website.

77. Defendants violated section 9-613 of the UCC because: (a) they did not provide Plaintiff with the date and time of the public sale; and (b) they misrepresented the method of disposition.

78. Defendants violated section 9-623 because Plaintiff is allowed to redeem his Truck at any time prior to the sale of the Truck.

79. The Agreement violated sections 9-615 through 9-616 because: (a) Defendants retain all of the proceeds from the disposition of collateral; (b) Defendants do not pay any lessee

a surplus after disposition; (c) Defendants do not reduce any deficiency balance upon disposition; and (d) Defendants charge an additional \$2,000 fee.

80. Defendants' conduct violated section 9-610 of the UCC because it is not commercially reasonable to: (a) provide Plaintiff with less than 10 days to redeem the Truck; (b) keep all of the proceeds from the sale after disposition; (c) misrepresent the intended method of disposition; (d) refuse to provide the date and time of a public sale; (e) inform Plaintiff that the Truck will be sold privately when it was supposed to be sold at a public sale; (f) demand payment by wire transfer only and refuse to provide the wire information; (g) demand payment in excess of the alleged balance owed; and (h) to require payment in full without providing Plaintiff with an accounting.

DAMAGE, HARM, AND INJURIES TO PLAINTIFF

81. Plaintiff has suffered actual damages, tangible injuries, and intangible injuries as a result of Defendants' conduct.

82. As outlined above, Defendants' efforts to enforce a security interest were objectively unfair, harassing, abusive, oppressive, and unconscionable.

83. Defendants' conduct caused Plaintiff to incur out of pocket monetary damages.

84. Defendants' conduct caused Plaintiff emotional distress, aggravation, anger, confusion, anxiety, nuisance, fear, humiliation, inconvenience, embarrassment, and annoyance.

85. Defendants caused an intrusion upon and occupation of Plaintiff's property. Likewise, Defendants' conduct interfered with and interrupted Plaintiff's use and enjoyment of his personal property.

86. All of Plaintiff's above-referenced injuries – both tangible and intangible – are actual, concrete injuries that are widely recognized by the United States Supreme Court, United

States Court of Appeals for the Eighth Circuit, United States District Court for the District of Minnesota, and District Courts for the State of Minnesota.

CLASS ACTION ALLEGATIONS

87. Plaintiff brings this action on behalf of himself and on behalf of all other persons similarly situated, and seeks to certify the following Classes:

a. Notice Class:

All lessees whose trucks were repossessed by or on behalf of Defendants, within four (4) years of the filing of the Complaint, and who were sent a pre-repossession notice which failed to contain one or more of the required mandatory disclosures in §§ 9-611, 9-612, and 9-613.

b. Public Sale Class

All lessees whose trucks were repossessed by or on behalf of Defendants, within four (4) years of the filing of the Complaint, and who were not sent a notice with the date and time for the public sale of their truck.

c. Fee Class

All lessees whose trucks were repossessed by or on behalf of Defendants, within four (4) years of the filing of the Complaint, and who were charged a \$2,000 fee.

88. The Notice Class, Public Sale Class, and Fee Class (collectively the “Classes” or “Class”) shall be subject to the following exclusions, who are not members of the Classes, notwithstanding eligibility according to the above criteria: all (1) Counsel for Plaintiff and the Classes; (2) Counsel for Defendants; (3) any assigned judge, and their clerks and staff; and (4) lessees whose account balances with Defendants were discharged in bankruptcy prior to the repossession.

89. During the class time-periods alleged herein, Defendants did not have a policy and procedure in place of sending proper legal notices to Plaintiff and the Classes.

90. Based upon established policy and practice, Defendants: (a) regularly sent pre-repossession notices that failed to comply with the UCC; (b) regularly retained all of the proceeds from the disposition of collateral without paying any surplus nor crediting any deficiency; (c) regularly charged an excessive \$2,000 fee; and (d) regularly sold the truck at a public sale.

91. This action has been brought as a class action pursuant to Rule 23 of the Minnesota Rules of Civil Procedure because the Classes satisfy the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements under Minn. R. Civ. P. 23.01 and 23.02.

Rule 23.01(a) - Numerosity

92. Defendants have at least five locations in the United States and offer auto loans in all 50 states. Defendants boast that they have signed over 6,473 titles to truck drivers across the country. In addition, Defendants' informational YouTube video has been viewed over 13,000 times. Upon information and belief, Defendants' revenue is in excess of multi-millions of dollars.

93. Defendants provides financing to a large number of truck drivers or lessees to purchase trucks. Of these lessees, many have defaulted and have had their trucks repossessed by Defendants. Defendants repeatedly fail to notify the Classes of the date and time of any public sale, fail to allow the Classes to redeem their truck, fail to provide reasonable notification of disposition, charge excess fees, and fail to credit the proceeds of any disposition.

94. The exact number of the class members is unknown at this time, but upon information and reasonable belief, the estimated number is in excess of 100 truck drivers. Thus,

it is plausible that Defendants failed to comply with the UCC on such a large number of truck drivers that joinder of all in this lawsuit would be impracticable.

95. The exact number of class members as well as the identities of all class members are readily ascertainable through appropriate discovery, including, but not limited to, the business records of Defendants and the online accounts from Defendants' website or internal software.

Rule 23.01(b) - Commonality

96. Common questions of law and fact that exist as to Classes. These common legal and factual questions include:

- a. Whether Defendants failed to provide the class members with a notice of disposition within ten days or more prior to the disposition of the trucks;
- b. Whether Defendants failed to provide the class members with the dates and times of any public sale of the truck;
- c. Whether Defendants failed to allow the class members to redeem their trucks at any time prior to the disposition of said class members' trucks;
- d. Whether Defendants wrongfully charged class members a \$2,000 fee; and
- e. Whether Defendants wrongfully retained proceeds from sale of the class members' trucks.

97. The common evidence that will drive resolution of the claims for the Classes is a list of lessees: (a) who were sent a pre-repossession notice which failed to contain one or more of the required mandatory disclosures in § 9-613; (b) who were given ten days or less to redeem their truck; (c) who were charged a \$2,000 fee; and/or (d) whose trucks were sold by Defendants.

Rule 23.01(c) - Typicality

98. Plaintiff's claims are typical of the claims of all the other members of the Classes because Plaintiff has the same claims to relief and has suffered the same injuries as all other class

members. Likewise, Plaintiff's claims are based on the same legal theories as the claims of all the other members of the Classes.

99. The claims of Plaintiff and the Classes originate from the same conduct, practice, and procedure on the part of Defendants. Thus, the claims of each class member require proof of the same operative facts. Any defenses that Defendants may have to liability or quantum of damages with respect to Plaintiff's claims would be generally applicable to all members of the Classes.

Rule 23.01(d) - Adequacy

100. Plaintiff brings this lawsuit after an extensive investigation of Defendants' alleged misconduct, with the intention to stop Defendants' unlawful practices, and to recover the same relief for all persons affected.

101. Because Plaintiff has no interest adverse to, or in conflict with, the interests of the Classes, Plaintiff will fairly and adequately protect the interests of all class members.

102. Plaintiff's counsel, Adam R. Strauss, practices exclusively in consumer protection with an emphasis on litigation concerning wrongful repossession matters under the Minnesota UCC. Plaintiff's counsel has been certified as class counsel in wrongful repossession class actions, all of which sought to enforce consumers' rights under the UCC.

103. Neither Plaintiff nor his counsel have any interest which might cause them to not vigorously pursue the instant class action lawsuit. Plaintiff and his counsel are committed to expending the time, energy, and resources necessary to successfully prosecute this action on behalf of the Classes.

Rule 23.02 – Predominance/Superiority

104. A class action is appropriate because questions of law and fact common to Plaintiff and the Classes substantially predominate over questions that may affect individual class members. Because all members of the Classes had their rights violated in the same manner by the same actions of Defendants, the answer to these common questions will advance the adjudication or resolution of the litigation as to all class members.

105. A class action is superior to all other available methods for the fair and efficient adjudication of the controversies raised in this Complaint because the costs to pursue individual claims would likely exceed what any one class member has at stake. Thus, members of the Classes have little interest in controlling separate actions when considering the cost, risk, delay, and uncertainty of recovery in prosecuting these claims.

106. The concentration of litigation of these claims in one forum will permit a large number of similarly situated persons to prosecute their common claims efficiently, without unnecessary duplication of effort and expense that individual actions would engender, and therefore, promote judicial economy.

107. Relief under the UCC follows from evidence that Defendants charged a \$2,000 fee, failed to notify the Classes of the date and time of any public sale, failed to allow the Classes to redeem their truck, failed to provide reasonable notification of disposition, and failed to pay credit accounts after disposition—not the subjective or individual experience of any class member.

108. Whether Defendants violated the law can be determined by examination of Defendants' policies and conduct, as well as a ministerial inspection of Defendants' business records.

109. Upon information and belief, few members of the Classes are aware that Defendants' actions were unlawful. Thus, the class notice mechanism provides an opportunity for uninformed members of the Classes to learn about their rights and obtain relief where they otherwise would not have.

110. Plaintiff and his counsel are not aware of any other pending actions against Defendants related to their regular practice of failure to comply with the UCC.

111. A class action is appropriate because the prosecution of separate actions for individual class members creates a risk of inconsistent or varying adjudications which could establish incompatible standards of conduct for the parties engaged in the provision of enforcing security agreements. Likewise, the prosecution of separate actions by individual class members would, as a practical matter, be dispositive of the interests of other members who are not parties to the action or could substantially impair or impede their ability to protect their interests.

COUNT I
VIOLATIONS OF THE MINN. STAT. § 336.9-610 THROUGH § 9-612
(ALL DEFENDANTS)

112. Plaintiff restates and re-alleges the preceding allegations of this Complaint.

113. Plaintiff brings Count I as a Class Action on behalf of himself, the Notice Class, the Public Sale Class, and the Fee Class.

114. Under the UCC, “[e]very aspect of a disposition of collateral, including the method, manner, time, place, and other terms, must be commercially reasonable.” Minn. Stat. § 336.9-610.

115. Under the UCC, a secured party must send a “reasonable authenticated notification of disposition.” Minn. Stat. § 336.9-611.

116. Under the UCC, reasonable notification is sent ten or more days before the disposition of collateral. Minn. Stat. § 336.9-612.

117. Defendants' conduct violated Minn. Stat. § 336.9-610 because it is not commercially reasonable to: (a) provide less than 10 days to redeem collateral; (b) keep all of the proceeds from the sale after disposition; (c) misrepresent the intended method of disposition; (d) refuse to provide the date and time of a public sale; and (e) demand payment in excess of the alleged balance owed.

118. Defendants violated Minn. Stat. §§ 336.9-610 through 9-612 because they did not provide Plaintiff and the Classes with a notice of disposition within ten days or more prior to the disposition.

119. As a result of Defendants' violations of Minn. Stat. §§ 336.9-610 through 9-612 and pursuant to section 336.9-625, Plaintiff and the Classes are entitled to actual damages and statutory damages.

120. Plaintiff and the Classes have suffered damages in an amount to be proved at trial but reasonably believed to be in excess of \$50,000.

COUNT II
VIOLATIONS OF THE MINN. STAT. § 336.9-613
(ALL DEFENDANTS)

121. Plaintiff restates and re-alleges the preceding allegations of this Complaint.

122. Plaintiff brings Count II as a Class Action on behalf of himself, the Notice Class, the Public Sale Class, and the Fee Class.

123. Under the UCC, a notification before disposition of collateral must: (a) describe the debtor and the secured party; (b) describe the collateral that is the subject of the intended disposition; (c) state the method of intended disposition; (d) state that the debtor is entitled to an

accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and (e) state the time and place of a public disposition or the time after which any other disposition is to be made. Minn. Stat. § 336.9-613.

124. Defendants violated Minn. Stat. § 336.9-613 because: (a) they did not provide Plaintiff and the Classes with the date and time of the public sale; and (b) they misrepresented the method of disposition.

125. As a result of Defendants' violations of Minn. Stat. § 336.9-613 and pursuant to Minn. Stat. § 336.9-625, Plaintiff and the Classes are entitled to actual damages and statutory damages.

126. Plaintiff and the Classes have suffered damages in an amount to be proved at trial but reasonably believed to be in excess of \$50,000.

COUNT III
VIOLATIONS OF MINN. STAT. §§ 336.9-615 and 9-616
(ALL DEFENDANTS)

127. Plaintiff restates and re-alleges the preceding allegations of this Complaint.

128. Plaintiff brings Count III as a Class Action on behalf of himself, the Notice Class, the Public Sale Class, and the Fee Class.

129. Under the UCC, upon disposition of collateral, a secured party is required to use the proceeds to satisfy the outstanding obligation secured by the security interest. Minn. Stat. §§ 336.9-615 and 9-616. After satisfying the outstanding obligation, a secured party is required to pay an excess surplus to the debtor or reduce any deficiency balance owed to the secured party.

130. The Agreement violated sections 336.9-615 through 9-616 because: (a) Defendants retained all of the proceeds from the disposition of collateral; (b) Defendants do not

pay any lessee a surplus after disposition; (c) Defendants do not reduce any deficiency balance upon disposition; and (d) Defendants charge an additional \$2,000 fee.

131. As a result of Defendants' violations of Minn. Stat. §§ 336.9-615 and 9-616 and pursuant to section 336.9-625, Plaintiff and the Classes are entitled to actual damages and statutory damages.

132. Plaintiff and the Classes have suffered damages in an amount to be proved at trial but reasonably believed to be in excess of \$50,000.

COUNT IV
VIOLATIONS OF MINN. STAT. § 336.9-623
(ALL DEFENDANTS)

133. Plaintiff restates and re-alleges the preceding allegations of this Complaint.

134. Plaintiff brings Count IV as a Class Action on behalf of himself, the Notice Class, the Public Sale Class, and the Fee Class.

135. Under the UCC, a person may redeem their collateral at any time before a secured party disposes of the collateral. Minn. Stat. § 336.9-623.

136. Defendants violated section 336.9-623 because they refused to allow Plaintiff and Classes to redeem their trucks at any time prior to the sale of their trucks.

137. As a result of Defendants' violations of Minn. Stat. § 336.9-623 and pursuant to section 336.9-625, Plaintiff and the Classes are entitled to actual damages and statutory damages.

138. Plaintiff and the Classes have suffered damages in an amount to be proved at trial but reasonably believed to be in excess of \$50,000.

JURY DEMAND

139. Plaintiff demands trial by jury.

WHEREFORE, Plaintiff Ali Dahir demands a trial by jury and prays for judgment against Defendants Cresco Capital, Inc. and Lone Mountain Trucking, LLC as follows:

1. Awarding judgment against Defendants in an amount to be determined at trial;
2. Certifying the Notice Class, the Public Sale Class, and the Fee Class;
3. Awarding Plaintiff actual damages and statutory damages under Minn. Stat. § 336.9-625 against Defendants;
4. Awarding the Notice Class, the Public Sale Class, and the Fee Class actual damages and statutory damages under Minn. Stat. § 336.9-625 against Defendants;
5. Awarding Plaintiff, the Notice Class, the Public Sale Class, and the Fee Class any costs, litigation expenses, disbursements, and allowable attorneys' fees; and
6. Awarding Plaintiff, the Notice Class, the Public Sale Class, and the Fee Class such other and further relief as the Court deems proper, just, and equitable.

TARSHISH CODY, PLC

Dated: June 24, 2021

By: s/ Adam R. Strauss
Adam R. Strauss (#0390942)
ars@attorneysinmn.com
Benjamin W. Tarshish (#0392691)
btarshish@attorneysinmn.com
6337 Penn Avenue South
Minneapolis, Minnesota 55423
Telephone: (952) 361-5556
Facsimile: (952) 361-5559
ATTORNEYS FOR PLAINTIFF

ACKNOWLEDGMENT REQUIRED BY MINNESOTA STATUTE SECTION 549.211

The undersigned hereby acknowledges that costs, disbursements and reasonable attorney and witness fees may be awarded to the opposing party or parties pursuant to Minn. Stat. § 549.211.

TARSHISH CODY, PLC

Date: June 24, 2021

By: s/ Adam R. Strauss
Adam R. Strauss (#0390942)

VERIFICATION OF CLASS ACTION COMPLAINT AND CERTIFICATION

Pursuant to Minn. Stat. § 358.116, Plaintiff Ali Dahir verifies, certifies, and declares under penalty of perjury, as follows:

1. I am a Plaintiff in this civil proceeding.
2. I have read the above-entitled Class Action Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this Class Action Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law.
4. I believe that this Class Action Complaint is not interposed for any improper purpose, such as to harass any Defendants, cause unnecessary delay to any Defendant, or create a needless increase in the cost of litigation to any Defendant, named in the Class Action Complaint.
5. I have filed this Class Action Complaint in good faith and solely for the purposes set forth in it.
6. I declare under penalty of perjury under the laws of the United States of America and under the laws of the State of Minnesota that the foregoing is true and correct.

EXECUTED ON 06 24 2021
Month Day Year



Ali Dahir

EXHIBIT A-2

State of Minnesota

District Court

County of <u>Hennepin</u>	Judicial District: <u>Fourth</u> Court File Number: _____ Case Type: _____
---------------------------	--

Ali Dahir, on behalf of himself and all others
similarly situated,

Plaintiff (first, middle, last)

vs.

Cresco Capital, Inc. and
Lone Mountain Truck Leasing, LLC,

Defendant (first, middle, last)

Civil Cover Sheet
(Non-Family Case Type)

Minn. Gen. R. Prac. 104

Date Case Filed: 7-26-2021

This civil cover sheet must be filed by the initial filing lawyer or party, if unrepresented by legal counsel, unless the court orders all parties or their legal counsel to complete this form. Once the initial civil cover sheet is filed, opposing lawyers or unrepresented parties who have not already been ordered to complete this form may submit their own cover sheet within 7 days after being served with the initial cover sheet. See Rule 104 of the General Rules of Practice for the District Courts.

If information is not known to the filing party at the time of filing, it shall be provided to the Court Administrator in writing by the filing party within 7 days of learning the information.

Any party impleading additional parties shall provide the same information to the Court Administrator. The Court Administrator shall, upon receipt of the completed certificate, notify all parties or their lawyers, if represented by counsel, of the date of filing the action and the file number assigned.

ATTORNEY FOR PLAINTIFF

ATTORNEY FOR DEFENDANT

Adam R. Strauss

Attorney Name (not firm name)

R. Henry Pfutzenreuter

Attorney Name (not firm name)

6337 Penn Avenue South

Postal Address

8300 Norman Center Drive, Ste. 1000

Postal Address

Minneapolis

City

MN

State

55423

Zip Code

Bloomington

City

MN

State

55423

Zip Code

952-361-5556

Telephone Number

952-896-3325

Telephone Number

ars@attorneysinmn.com

E-mail Address

hputzenreuter@larkinhoffman.com

E-mail Address

0390942

Minnesota Attorney ID Number

0391468

Minnesota Attorney ID Number

PLAINTIFF, Self-represented

DEFENDANT, Self-represented

Name

Name

Postal Address

Postal Address

City State Zip Code

City State Zip Code

Telephone Number

Telephone Number

E-mail Address

E-mail Address

(Attach additional sheets for additional attorneys / parties)

Note: If either Plaintiff or Defendant gets an attorney, the attorney's name, address, telephone number and attorney ID number must be given in writing to the Court Administrator immediately.

1. Provide a concise statement of the case including facts and legal basis:

2. Date Complaint was served: 6-24-2021

3. For Expedited Litigation Track (ETLT) Pilot Courts only:

a. The parties jointly and voluntarily agree that this case shall be governed by the Special Rules of ETLT Pilot. Date of agreement: _____

b. The court is requested to consider excluding this case from ETLT for the following reasons:

Note: ETLT is mandatory in certain cases, and where mandatory, exclusion may also be sought by timely motion under the Special Rules for ETLT Pilot.

c. Anticipated number of trial witnesses: _____

d. Amount of medical expenses to date: _____

e. Amount of lost wages to date: _____

f. Identify any known subrogation interests: _____

4. For Complex Cases (See Minn. Gen. R. Prac. 146):

a. Is this case a "complex case" as defined in Rule 146? Yes No

b. State briefly the reasons for complex case treatment for this case:

c. Have the parties filed a "CCP Election" for this case as provided in Rule 146(d)?

Yes No

5. Estimated discovery completion within _____ months from the date of this form.

6. Disclosure/discovery of electronically stored information discussed with other party?

No Yes Date of discussion: _____

If yes, list agreements, plans and disputes:

7. Proposed trial start date: _____

8. Estimated trial time: _____ days _____ hours (estimates less than a day must be stated in hours).

9. Jury trial is:

waived by consent of _____ pursuant to Minn. R. Civ. P. 38.02.
(specify party)

requested by _____ (NOTE: Applicable fee must be enclosed)
(specify party)

10. Physical/mental/blood examination pursuant to Minn. R. Civ. P. 35 is requested.

Yes No

11. Identify any party or witness who will require interpreter services, and describe the services needed (specifying language, and if known, particular dialect):

12. Issues in dispute:

13. Case Type/Category: _____ (NOTE: select case types from the Civil Case Type Index found at http://www.mncourts.gov/mncourtsgov/media/scao_library/documents/eFile%20Support/Handout-Case-Type-Index.pdf.)

14. Recommended Alternative Dispute Resolution (ADR) mechanism: _____
(See list of ADR processes set forth in Minn. Gen. R. Prac. 114.02(a))

Recommended ADR provider (known as a "neutral") _____

Recommended ADR completion date: _____

If applicable, reasons why ADR not appropriate for this case:

By signing below, the attorney or party submitting this form certifies that the above information is true and correct.

Submitted by:

/s/ R. Henry Pfutzenreuter
Signature

Name: R. Henry Pfutzenreuter

Attorney Reg. #: 0391468

Firm/Agency Name: Larkin Hoffman Law Firm

Street Address: 8300 Norman Center Drive, Ste. 1000

City/State/Zip Code: 55437

Telephone: 952-896-3325

Date: 7-26-2021

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

*Ali Dahir, on behalf of himself and all
others similarly situated,*

Court File No. _____
Judge _____

Plaintiff,

vs.

Cresco Capital, Inc. and Lone Mountain
Truck Leasing, LLC,

**NOTICE OF FILING OF NOTICE
OF REMOVAL**

Defendants.

Please take notice that on July 26, 2021, Defendants Cresco Capital, Inc. and Lone Mountain Truck Leasing, LLC (“Defendants”) filed with the Clerk of Court for the United States District Court for the District of Minnesota a Notice of Removal to remove this action from the District Court, Fourth Judicial District, County of Hennepin, State of Minnesota, to the United States District Court for the District of Minnesota, a copy of which is attached as Exhibit A. Under 28 U.S.C. § 1446, filing this Notice removes this action from this Court and it may “proceed no further unless and until the case is remanded.” 28 U.S.C. § 1446(b).

Dated: July 26, 2021

/s/ R. Henry Pfutzenreuter
R. Henry Pfutzenreuter (0391468)
Larkin Hoffman Daly & Lindgren, Ltd.
8300 Norman Center Drive, Suite 1000
Minneapolis, Minnesota 55437
Phone: (952) 896-3340
Fax: (952) 896-3333
hpfutzenreuter@larkinhoffman.com

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Ali Dahir, on behalf of himself and all others similarly situated,

(b) County of Residence of First Listed Plaintiff Ohio (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Tarshish Cody, PLC
6337 Penn Avenue South
Minneapolis, MN 55423
952-361-5556

DEFENDANTS

Cresco Capital, Inc. and Lone Mountain Truck Leasing, LLC

County of Residence of First Listed Defendant Pottawattamie County, IA (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Larkin Hoffman Law Firm
8300 Norman Center Drive, Ste. 1000
Bloomington, MN 55437
952-896-3325

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State PTF 1 DEF 1
Citizen of Another State PTF 2 DEF 2
Citizen or Subject of a Foreign Country PTF 3 DEF 3
Incorporated or Principal Place of Business In This State PTF 4 DEF 4
Incorporated and Principal Place of Business In Another State PTF 5 DEF 5
Foreign Nation PTF 6 DEF 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Personal Injury, Property Rights, and Tax Suits.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. § 1332(d)(2)
Brief description of cause: Claims under Minnesota's Uniform Commercial Code on behalf of individual and putative class.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 07/26/2021 SIGNATURE OF ATTORNEY OF RECORD /s/ R. Henry Pfitzenreuter

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket. **PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Claims Lone Mountain, Cresco Truck Lease Agreements Violate Minn. Law](#)
