

FITAPELLI & SCHAFFER, LLP

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New York, NY 10005
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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

**BYRON THOMPSON, individually and on
behalf of all others similarly situated,**

Plaintiff,
-against-

**SKYVIEW CAPITAL, LLC and KING
TELESERVICES L.L.C.,**

Defendants.

No:

**CLASS ACTION
COMPLAINT**

Byron Thompson (“Plaintiff”), individually and on behalf of all others similarly situated, as class representative, upon personal knowledge as to himself, and upon information and belief as to other matters, alleges as follows:

NATURE OF THE ACTION

1. This lawsuit seeks to recover unpaid spread of hours compensation and other damages for Plaintiff and similarly situated non-exempt hourly customer services representatives (collectively, “Hourly Workers”) who work or have worked for Skyview Capital, LLC and King Teleservices, L.L.C. (collectively, “King Teleservices” or “Defendants”) in New York.

2. King Teleservices operates a call center in Brooklyn, New York that employs over 300 people, a majority of whom are Hourly Workers.¹

¹ See <https://www.prnewswire.com/news-releases/continuum-global-solutions-llc-expands-its-growing-call-center->

3. Upon information and belief, King Teleservices has employed over 1,000 Hourly Workers in New York since September 11, 2017.

4. At all relevant times, Defendants compensated Plaintiff and all other Hourly Workers on an hourly basis at the applicable minimum wage.

5. At all relevant times, Defendants required Plaintiff and all other similarly situated Hourly Workers in New York to work shifts of over ten (10) hours and/or split shifts.

6. If a class member worked a shift of over ten hours or a split shift, and was paid the applicable minimum wage, they are entitled to spread of hours pay.

7. Despite paying Plaintiff and other Hourly Workers in New York the applicable minimum wage and requiring them to work shifts of over ten hours, Defendants failed to provide Plaintiff and similarly situated Hourly Workers in New York spread of hours pay.

8. Defendants failed to provide Plaintiff and similarly situated Hourly Workers with an accurate statement of wages pursuant to NYLL § 195(3), as the paystubs provided failed to notate Plaintiff's and similarly situated Hourly Workers' correct owed wages and hours, namely spread of hours pay.

9. Plaintiff relied on his paystubs to ensure that Defendants paid them the correct rate for the hours they worked.

10. Defendants did not provide Plaintiff with accurate wage statements in weeks in which they were not paid proper spread of hour compensation. In this regard, the failure to provide Plaintiff with accurate wage statements violated NYLL § 195 (3).

11. Due to Defendants' failure to provide the wage statements Plaintiff, and similarly situated Hourly Workers, were misinformed about the correct rate they were entitled to receive

and hours they worked,

12. Defendants' failure to provide wage statements allowed Defendants to continue their unlawful wage and hour scheme without Plaintiff's or similarly situated Hourly Workers' awareness that they were being underpaid. If Defendants had provided accurate wage statements, they could not have underpaid Plaintiff or similarly situated Hourly Workers.

13. Accordingly, Plaintiff and similarly situated Hourly Workers are entitled to statutory penalties of two hundred fifty dollars for each workday that Defendants failed to provide them with accurate wage statements, up to a total of five thousand dollars each pursuant to NYLL § 195(3).

14. Plaintiff brings this action on behalf of himself and all other similarly situated Hourly Workers in New York pursuant to Federal Rule of Civil Procedure 23 ("Rule 23") to remedy violations of the New York Labor Law, Article 6, §§ 190 *et seq.* ("NYLL"), and Article 19, §§ 650 *et seq.*, and the supporting New York State Department of Labor Regulations.

THE PARTIES

Plaintiff

Byron Thompson

15. Byron Thompson ("Thompson") is an adult individual who is a resident of the State of New York.

16. Thompson was employed by King Teleservices as an Hourly Worker from on or about April 3, 2020 through approximately 2023.

17. Thompson is a covered employee within the meaning of the NYLL.

Defendants

Skyview Capital, LLC

18. Skyview Capital LLC is a foreign business corporation organized and existing under the laws of Delaware.

19. Skyview Capital LLC's principal executive office is located at 2000 Avenue of the Stars, Suite 810 North, Los Angeles, California 90067.

20. Skyview Capital LLC was and is a covered employer within the meaning of the NYLL, and at all times relevant, employed Plaintiff and similarly situated employees.

21. Skyview Capital LLC has maintained control, oversight, and direction over Plaintiff and similar employees, including timekeeping, payroll, and other employment practices that applied to them.

22. Skyview Capital LLC applies the same employment policies, practices, and procedures to all Hourly Workers in its operation, including policies, practices, and procedures with respect to payment of wages.

King Teleservices, L.L.C.

23. King Teleservices, L.L.C. is a foreign business corporation organized and existing under the laws of Delaware.

24. King Teleservices, L.L.C.'s principal executive office is located at 2000 Avenue of the Stars, Suite 810 North, Los Angeles, California 90067.

25. King Teleservices, L.L.C. was and is a covered employer within the meaning of the NYLL, and at all times relevant, employed Plaintiff and similarly situated employees.

26. King Teleservices, L.L.C. has maintained control, oversight, and direction over Plaintiff and similar employees, including timekeeping, payroll, and other employment practices

that applied to them.

27. King Teleservices, L.L.C. applies the same employment policies, practices, and procedures to all Hourly Workers in its operation, including policies, practices, and procedures with respect to payment of wages.

JURISDICTION AND VENUE

28. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act of 2005 (“CAFA”), codified at 28 U.S.C. § 1332(d), because the amount in controversy against the Defendants in this matter exceeds the sum or value of \$5,000,000, exclusive of interest and costs.

29. The members of the proposed class are citizens of states different from that of at least one Defendant.

30. There are over 100 members in the proposed class.

31. Defendants are subject to personal jurisdiction in New York.

32. Venue is proper in the Eastern District of New York pursuant to 28 U.S.C. § 1391(b)(2) because Defendants conduct business in this District, and the events or omission giving rise to Plaintiff’s claims arose in this District.

NEW YORK CLASS ACTION ALLEGATIONS

33. Plaintiff brings the First and Second Causes of Action, NYLL claims, under Rule 23 of the Federal Rules of Civil Procedure, on behalf of themselves and a class of persons consisting of:

All persons who work or have worked as Hourly Workers for Skyview Capital LLC and King Teleservices, L.L.C. in New York between September 11, 2017² and the date of final judgment in this matter (the “New York Class”).

34. The members of the New York Class are so numerous that joinder of all members is impracticable, and the disposition of their claims as a class will benefit the parties and the Court.

35. There are more than fifty members of the New York Class.

36. Plaintiff’s claims are typical of those claims that could be alleged by any member of the New York Class, and the relief sought is typical of the relief which would be sought by each member of the New York Class in separate actions.

37. Plaintiff and the New York Class have all been injured in that they have been uncompensated, under-compensated, or untimely compensated due to Defendants’ common policies, practices, and patterns of conduct. Defendants’ corporate-wide policies and practices affected everyone in the New York Class similarly, and Defendants benefited from the same type of unfair and/or wrongful acts as to each member of the New York Class.

38. Plaintiff is able to fairly and adequately protect the interests of the New York Class and has no interests antagonistic to the New York Class.

39. Plaintiff is represented by attorneys who are experienced and competent in both class action litigation and employment litigation and have previously represented many plaintiffs and classes in wage and hour cases.

40. A class action is superior to other available methods for the fair and efficient adjudication of the controversy – particularly in the context of wage and hour litigation where

² This class period is due to Governor Cuomo’s Executive Order that tolled the applicable NYLL statute of limitations during the COVID-19 pandemic for 228 days. *See Brash v. Richards*, 195 A.D. 3d 582, 2021 WL 2213786, 2021 N.Y. Slip Op. 03436 (App. Div. 2d Dep’t June 2, 2021) (holding executive order tolled rather than suspended statutes of limitations under New York law).

individual class members lack the financial resources to vigorously prosecute a lawsuit against corporate defendants. Class action treatment will permit a large number of similar persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of efforts and expense that numerous individual actions engender.

41. Common questions of law and fact exist as to the New York Class that predominate over any questions only affecting Plaintiff and/or each member of the New York Class individually and include, but are not limited to, the following:

- (a) whether Defendants correctly compensated Plaintiff and the New York Class with spread of hours pay, as required by the NYLL;
- (b) whether Defendants failed to furnish Plaintiff and the New York Class with accurate statements with every payment of wages, as required by the NYLL.

PLAINTIFF'S FACTUAL ALLEGATIONS

42. Consistent with their policies and patterns or practices as described herein, Defendants harmed Plaintiff, individually, as follows:

Byron Thompson

43. Thompson was employed at Defendants' Brooklyn, New York Call center as an hourly employee from on or about April 3, 2020 to on or about 2023.

44. Throughout his employment, Thompson would work shifts of over ten hours from beginning to the end of his shift and/or split shifts.

45. Throughout his employment, Thompson was paid the applicable minimum wage.

46. Despite working shifts of over ten hours and/or split shifts and being paid the applicable minimum wage, Defendants failed to provide Thompson with spread of hours pay as required by the NYLL.

47. For example, during the workweeks of April 4, 2020 to April 17, 2020, Thompson was paid the applicable minimum wage of \$15.00 per hour and worked shifts of over ten hours, yet was not provided any spread of hours pay. *See Exhibit A*, Thompson Paystub.

48. Throughout his employment, Defendants failed to provide Thompson with accurate wage statements with each payment of wages as required by the NYLL.

49. In this regard, Defendants proffered paystubs that did not reflect Thompson's, and similarly situated Hourly Workers', right to spread of hours pay.

50. The failure to provide accurate pay statements allowed Defendants to continue to carry on a scheme of underpaying Thompson and similarly situated Hourly Workers.

FIRST CAUSE OF ACTION
New York Labor Law – Spread of Hours Pay
(Brought on behalf of Plaintiff and the New York Class)

51. Plaintiff realleges and incorporates by reference all allegations in all preceding paragraphs.

52. Defendants have failed to pay Plaintiff and the New York Class compensation of one hour's pay at the basic minimum hourly wage rate for each day that the length of the interval between the beginning and end of their workday – including working time plus time off for meals plus intervals off duty – was greater than 10 hours or for workdays that Plaintiff and the New York Class worked split shifts.

53. Due to Defendant's violations of the NYLL, Plaintiff and the New York Class are entitled to recover from Defendants their unpaid spread of hours wages, liquidated damages, reasonable attorneys' fees and costs, and pre-judgment and post-judgment interest.

SECOND CAUSE OF ACTION
New York Labor Law – Failure to Provide Accurate Wage Statements
(Brought on behalf of Plaintiff and the New York Class)

54. Plaintiff realleges and incorporates by reference all allegations in all preceding

paragraphs.

55. Defendants failed to supply Plaintiff and the New York Class with an accurate statement of wages with every payment of wages as required by NYLL, Article 6, § 195(3), listing: dates of work covered by that payment of wages; name of employee; name of employer; address and phone number of employer; rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; gross wages; deductions; allowances, if any, claimed as part of the minimum wage; hourly rate or rates of pay and overtime rate or rates of pay if applicable; the number of hours worked per week, including overtime hours worked if applicable; deductions; and net wages.

56. Due to Defendants' violations of NYLL § 195(3), Plaintiff and the New York Class are entitled to statutory penalties of two hundred fifty dollars for each workday that Defendants failed to provide them with accurate wage statements, or a total of five thousand dollars each, as well as reasonable attorneys' fees and costs as provided for by NYLL, Article 6, § 198.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually, and on behalf of all other similar persons, respectfully request that this Court grant the following relief:

- A. Certification of this case as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure;
- B. Designation of Plaintiff as representative of the NY Rule 23 Class and counsel of record as Class Counsel;
- C. Unpaid spread of hours pay and liquidated damages permitted by law pursuant to the NYLL and the supporting New York State Department of Labor Regulations;
- D. Statutory penalties of two hundred fifty dollars for each workday that Defendants

failed to provide Plaintiff and the NY Rule 23 Class with accurate wage statements, or a total of five thousand dollars each, as provided for by NYLL, Article § 198;

- E. Prejudgment and post-judgment interest;
- F. Reasonable attorneys' fees and costs of the action; and
- G. Such other relief as this Court shall deem just and proper.

Dated: New York, New York
April 26, 2024

Respectfully submitted,

Brian S. Schaffer

FITAPELLI & SCHAFFER, LLP

Brian S. Schaffer
Hunter G Benharris
28 Liberty Street, 30th Floor
New York, NY 10005
Telephone: (212) 300-0375

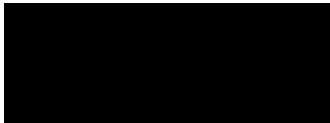
*Attorneys for Plaintiff and
the Putative Class*

KING TELESERVICES LLC
 2000 AVENUE OF THE STARS
 8TH FLOOR NORTH TOWER
 LOS ANGELES CA 90067

1209-7340
 ORG1:311 null
 ORG2:2 Contact Center



BYRON K THOMPSON



NON-NEGOTIABLE

NON-NEGOTIABLE

Payrolls by Paychex, Inc.

Payrolls by Paychex, Inc.

PERSONAL AND CHECK INFORMATION
 Byron K Thompson



Clock ID: 0321

Home Department: 2 Contact Center 141 01NYI / 311 null

Pay Period: 04/04/20 to 04/17/20

Check Date: 04/24/20 Check #: 6203

NET PAY ALLOCATIONS

DESCRIPTION	THIS PERIOD (\$)	YTD (\$)
Check Amount	0.00	0.00
Chkg 8380	754.00	754.00
Chkg 0548	450.00	450.00
Savg 1703	25.00	25.00
Savg 8050	150.00	204.95
NET PAY	1379.00	1433.95

TIME OFF (Based on Policy Year)

DESCRIPTION CURRDEDUCT

Bereavement 0.00 hrs

DESCRIPTION CURRDEDUCT

Jury Duty 0.00 hrs

DESCRIPTION BEGBAL CURRDEDUCT AVAILBAL

PTO 0.00 hrs 0.00 hrs 0.00 hrs

DESCRIPTION CURRDEDUCT

Sick 0.00 hrs

EARNINGS	DESCRIPTION	HRS/UNITS	RATE	THIS PERIOD (\$)	YTD HOURS	YTD (\$)
	Hourly	80.00	15.0000	1200.00	80.00	1200.00
	Overtime	27.50	22.5000	618.75	27.50	618.75
	Training				4.00	60.00
	Total Hours	107.50			111.50	
	Gross Earnings			1818.75		1878.75
	Total Hrs Worked	107.50				

WITHHOLDINGS	DESCRIPTION	FILING STATUS	THIS PERIOD (\$)	YTD (\$)
	Social Security		112.76	116.48
	Medicare		26.37	27.24
	Fed Income Tax	SMS	153.42	153.42
	NY Income Tax	S 0	83.38	83.38
	NY Disability		1.20	1.50
	NY Disability PFL		4.91	5.07
	NY NYC Inc	S 0	57.71	57.71
	TOTAL		439.75	444.80

NET PAY	THIS PERIOD (\$) 1379.00	YTD (\$) 1433.95
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Payrolls by Paychex, Inc.

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

BYRON THOMPSON, individually and on behalf of all others similarly situated,

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

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

Fitapelli & Schaffer, LLP
28 Liberty Street, 30th Floor
New York, New York 10005 (212) 300-0375

DEFENDANTS

SKYVIEW CAPITAL, LLC and KING TELESERVICES L.L.C.,

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

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

Attorneys (If Known)

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)

Does this action include a motion for temporary restraining order or order to show cause? Yes No

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

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

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

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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)
Brief description of cause: Failure to Pay Wages

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 April 26, 2024 SIGNATURE OF ATTORNEY OF RECORD

Handwritten signature of Brian Schaffer

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.7 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration

I, _____, counsel for _____, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 1(c)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? Yes No
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? Yes No
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes No
 - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received:

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? Yes No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

Yes (If yes, please explain) No

I certify the accuracy of all information provided above.

Signature: Brian Schable

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

BYRON THOMPSON, individually and on behalf of all)
others similarly situated,)

Plaintiff(s)

v.

SKYVIEW CAPITAL, LLC and KING TELESERVICES)
L.L.C.,)

Defendant(s)

Civil Action No. 24 Civ. 3132

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) King Teleservices, L.L.C.
C/O United Corporate Services, Inc.
10 Bank Street, Ste. 560
White Plains, New York 10606

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Fitapelli & Schaffer, LLP
28 Liberty Street, 30th Floor
New York, New York 10005

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

BRENNA B. MAHONEY
CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 24 Civ. 3132

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

BYRON THOMPSON, individually and on behalf of all)
others similarly situated,)

Plaintiff(s)

v.

SKYVIEW CAPITAL, LLC and KING TELESERVICES)
L.L.C.,)

Defendant(s)

Civil Action No. 24 Civ. 3132

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Skyview Capital, LLC
200 Avenue of the Stars,, STE 801N
Los Angeles, California 90067

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Fitapelli & Schaffer, LLP
28 Liberty Street, 30th Floor
New York, New York 10005

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

BRENNA B. MAHONEY
CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 24 Civ. 3132

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: