IN THE SUPREME COURT OF MISSOURI

NO. SC 91780

CACH, LLC,

Plaintiff/Respondent,

v.

JON ASKEW,

Defendant/Appellant.

AMICUS CURIAE BRIEF OF DBA INTERNATIONAL IN SUPPORT OF RESPONDENT

Appeal from the Circuit Court of St. Louis, Missouri

Associate Division

Honorable Dale Hood, Judge

SPENCER FANE BRITT & BROWNE LLP
Joshua C. Dickinson, MO #51446
1000 Walnut, Suite 1400
Kansas City, MO 64106
Telephone: (816) 474-8100
Facsimile: (816) 474-3216
E-mail: jdickinson@spencerfane.com
ATTORNEYS FOR AMICUS CURIAE, DBA INTERNATIONAL

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

FEDERAL CASES

STATE CASES

FEDERAL STATUTES

STATE STATUTES

OTHER AUTHORITIES

STATEMENT OF INTEREST

DBA, formerly known as Debt Buyers Association, was formed in 1997 as a trade group for businesses that purchase delinquent consumer debts. It is the largest and most prominent organization dedicated exclusively to representing debt buyers in the United States. DBA has over 500 professional debt buyer members and 120 vendor and affiliate members. DBA formed in order to provide a forum to foster ethical, efficient, and knowledgeable practices in the debt buying industry. Further, DBA provides networking and educational opportunities for its members, as well as a forum to advance the interests of debt buyers with state and federal regulators and legislatures. DBA disseminates information to its members on compliance matters by way of an annual convention, an executive conference, newsletters, webinars and through its public and member only portions of its website. *See* http://www.dbainternational.org.

DBA submits this Amicus Brief to support the well-reasoned decision of the Circuit Court. DBA has a vested interest in the outcome of this appeal because its debt buyer members hold title to a large number of charged-off accounts in the state of Missouri, which can be legitimately considered for suit if not paid thorough voluntary collection. The determination of the admissibility of business records created by the debt buyer's predecessor(s) in the chain of title of the debt, and relied upon and used in a debt buyer's business, will directly impact the viability and collectability of these accounts. DBA urges the Court to affirm.

STATEMENT OF FACTS

DBA accepts the Statement of Facts as set forth in Substitute Brief of Plaintiff/Respondent CACH, LLC, as though fully set forth herein.

SUMMARY OF ARGUMENT

The debt buying industry by its very nature must rely on the business records of its predecessors. In order to be able to collect on a debt, a debt buyer must have knowledge of how the debt was created, how the creditor's records were kept in the ordinary course of its business, and how the ownership of the debt was transferred to the debt buyer. Where a witness employed by the debt buyer can competently testify to these facts, the records have the indicia of trustworthiness that is at the heart of the business records exception to the hearsay rule. An overly restrictive interpretation of the hearsay rule – advanced by Appellant – would eviscerate this long-standing hearsay exception and would effectively close Missouri's courthouse doors to much of the debt buying industry. In turn, all Missouri citizens would be harmed because of decreased access to affordable credit.

ARGUMENT

A. The Debt Buying Industry And The Needs It Fulfills

This case involves the question of whether a debt buyer may introduce into evidence business records of the original creditor and business records evidencing the sale of the debt to the debt buyer in a collection action. In this brief, DBA will explain the nature of and the procedures followed by the debt buying industry, the economic benefits of that industry to both businesses and consumers, and how debt buyers may

properly introduce the business records of their predecessors in the chain of title under the Missouri's Uniform Business Records as Evidence Act. Mo. Rev. Stat. §§ 490.660, *et seq.*

1. How Debt Buyers Collect Purchased Debts

Businesses began purchasing consumer debts over forty-five (45) years ago. However, debt buying became more common in the last fifteen (15) years as more consumer credit originators, especially federal and state chartered banking institutions, began to sell more of their receivables. A debt buyer who purchases a portfolio of charged-off receivables acquires all right, title, and interest of the assignor to the indebtedness and is generally subject to all applicable consumer defenses.

Debt sales of consumer accounts, other than those originated by banks, also have become commonplace and are as accepted a practice as the sale of mortgages. Examples of the types of charged-off receivables sold to debt buyers include accounts from credit card originators, telecommunication providers, retail merchants, and utility providers. *See* "DBA International's Comments Related to Debt Collection for the FTC Debt Collection Workshop," filed June 2, 2007 by Barbara A. Sinsley (http://www.ftc.gov/os/comments/debtcollectionworkshop/529233-00010.pdf).

Hundreds, if not thousands of entities purchase charged-off debt, including five publicly traded debt buying companies.[1] It has been estimated that debt buyers are active

[1]Asset Acceptance Capital Corp., Portfolio Recovery Associates, Inc., Encore Capital Group Inc., Asta Funding Inc., and FirstCity Financial Corp.

in the annual purchase of over $100 billion dollars in face value of delinquent credit card debt alone.[2] By purchasing charged-off debt at less than face value, debt buyers are able to settle these debts at a discount; enabling consumers to improve their credit records, increase their access to credit, and reduce the overall costs of credit.

These publicly traded debt buyers, as well as privately-owned companies, purchase many of the larger portfolios directly from the originators. However, there are many smaller debt buyers that are active in the debt buying marketplace as well, purchasing a wide variety of debt portfolios.

Debt buying and collecting delinquent debt is a thoroughly regulated industry, subject to a number of federal and state laws.[3] The advent of debt buying and the growth in the number of debt buyers preceded consumer comprehension of the debt buying industry and how debt buyers handle collection of defaulted debts. In recent years, however, consumers have become increasingly aware that a debt may actually be owned

---

[2]Kaulkin & Ginsberg, GLOBAL DEBT BUYING REPORT, March 2006, p. xxviii.

[3]Some of the Federal laws regulating these industries and protecting consumers are: (1) Fair Debt Collection Practices Act; (2) Fair Credit Reporting Act ("FCRA"); (3) Fair and Accurate Credit Transaction Act of 2003 ("FACT Act"); (4) Financial Privacy Rule and Gramm-Leach-Bliley Act ("GLB"); (5) Safeguard Rule; (6) Electronic Funds Transfer Act ("Reg. E"); (7) Telephone Consumer Protection Act ("TCPA"), and (8) Health Insurance Portability and Accountability Act ("HIPAA.")

by an entity other than the original creditor. The legal system has also come to understand the vital role of debt buying in the operation of financial markets. As Judge Richard A. Posner of the United States Court of Appeals for the Seventh Circuit opined in *Olvera v. Blitt & Gaines,* 431 F.3d 285, 288 (7th Cir. 2005):

> Indeed, legitimate and fundamental reasons exist as to why creditors assign collection to other firms rather than doing it themselves. It is the same reason that most manufacturers sell to consumers through independent distributors and dealers rather than doing their own distribution. Outsourcing of the total production process facilitates specialization, with resulting economies. Specialists in debt collection are likely to be better at it than specialists in creating credit card debt in the first place.

Debt buyers purchase portfolio receivables originated from lenders, including banks and other financial institutions. Typically, the original lender – the bank or financing company – will attempt in collecting the loan itself, usually by hiring a private collection agency. Once the debt becomes more than 180 days past due and collection attempts have been made, the likelihood that it can be collected by the creditor is diminished. At this time, banks are required to write-off, or charge-off, bad debts on their financial books. *See* "Uniform Retail Credit Classification and Account Management Policy," Bulletin 2000-20, Office of the Comptroller of the Currency Bulletin 2000-20, Fed. Reg. June 12, 2000, Vol. 65 Number 113, pages 36903-36906.

Charged-off debts remain assets with value. Lenders looking to extract that value can either continue to pursue traditional collection strategies or sell a portfolio of

delinquent accounts. By creating a market for charged-off receivables, debt buyers return money to the original lenders, easing their losses, improving shareholder value and creating capital that can be used to support additional lending.

When a debt buyer begins its efforts to collect an unpaid debt, one of the first steps in the process is to conduct pre-collection screening to help mitigate errors and improve the rate of accurate consumer contact. The Fair Debt Collection Practices Act, 15 U.S.C. Sec. 1692, *et seq*., and similar state laws put clear restrictions on what conduct is permissible in collecting a defaulted debt. Letters and telephone collections are, by far, the most popular and constructive tools for collections. When these methods are not successful in resolving a consumer debt, filing lawsuits in state court is an alternative that is used on a limited basis to collect from consumers who often have the means to pay, but have failed or refused to do so.

2. Collection of Past Due Debts Has a Positive Impact on The Nation's Economy

In 2008, ACA International, a trade group representing traditional contingency collection agencies, retained PricewaterhouseCoopers LLP to conduct a survey and economic analysis of third-party debt collections. The results of this survey are instructive, showing the effect that collecting overdue debts has on all consumers.[4] The ACA survey found that in 2007 the industry's collection efforts resulted in $40.4 billion

[4]"Value of Third-Party Debt Collection to the U.S. Economy in 2007: Survey and Analysis." ACA International. June 12, 2008, pages 5-7.

of debt being returned to creditors and the economy as a whole, representing an average savings of $354 per American household that might have otherwise been spent had businesses been forced to raise prices to compensate for the unrecovered debt. Indeed, requiring those consumers who legitimately owe money to creditors to pay that debt lessens the financial impact (such as higher interest rates and costs) upon the rest of the citizenry.

While the economic benefits to consumers are important, the debt buying industry also returns real money to creditors' bottom line. Charged-off consumer debt has real economic value that provides a clear benefit to the creditors who sell it. Creditors are able to factor this value into their business model, knowing that they can collect a percentage on what might otherwise be a lost asset. This allows creditors to keep the cost of credit for all consumers lower and make credit more accessible to all citizens, including lower income consumers who most need it.

B. The Debt Buyer Records At Issue Were Properly Admitted into Evidence Under the Business Records Exception

1. A Trial Court Has Discretion to Decide Whether to Admit Evidence

"The admissibility of evidence lies within the sound discretion of the trial court; therefore, there can be no error absent a showing that the court abused its discretion." *C&W Asset Acquisition, LLC v. Somogyi,* 136 S.W.3d 134, 137 (Mo. Ct. App. 2004), *citing Giddens v. Kansas City Southern Ry. Co.*, 29 S.W.3d 813, 819 (Mo. banc 2000). "[O]n appeal, discretionary rulings are presumed correct, and the appellant bears the burden of showing an abuse of discretion." *State ex rel. Webster v. Lehndorff Genenva*,

744 S.W.2d 801, 804 (Mo. banc 1988). *Anglim v. Mo. Pac. R.R. Co.*, 832 S.W.2d 298, 303 (Mo. banc 1992), *cert. den. sub nom, Mo. Pac. R.R. Co., Missouri Pacific R. Co. v. Anglim,* 506 U.S. 1041, 113 S.Ct. 831, 121 L.Ed.2d 701 (1992). Abuse of discretion warranting reversal only exists where the "ruling is clearly against the logic of the circumstances then before the court and is so arbitrary and unreasonable as to shock the sense of justice and indicate a lack of careful consideration; if reasonable persons can differ about the propriety of the action taken by the trial court, then it cannot be said that the trial court abused its discretion." *Id.*

As demonstrated below, the trial court properly exercised its broad discretion to admit the records under the business records exception, and its ruling should be affirmed.

2. Appellant's Argument That The Business Records Exception Requires Testimony By An Employee of the Business Creating the Document Is An Unduly Narrow Reading of The Business Records Exception

Missouri's Uniform Business Records as Evidence Act provides at Section 490.680:

> A record of an act, condition or event, shall, insofar as relevant, be competent evidence if the custodian or other qualified witness testifies to its identity and the mode of its preparation, and if it was made in the regular course of business, at or near the time of the act, condition or event, and if, in the opinion of the court, the sources of information, method and time of preparation were such as to justify its admission.

When these requirements are met, "the statute invests the record[s] with a presumptive verity, and so excepts them from the hearsay rule." *State v. Graham,* 641 S.W.2d 102 (Mo. banc 1982). *Piva v. Gen. Am. Life Ins. Co.,* 647 S.W.2d 866, 877 (Mo.Ct.App. 1983). "[T]he bottom line regarding the admissibility of the business records is the discretionary determination by the trial court of their trustworthiness." *Rouse Co. of Mo., Inc. v. Justin's, Inc.,* 883 S.W.2d 525, 530 (Mo. Ct. App. 1994).

Appellant's position that only an employee of the entity that created a business record is able to sponsor the record ignores the underpinnings of the rationale behind the business records exception, and would eviscerate the rule. The business records "rule is designed to facilitate the admission of documents which experience has demonstrated to be trustworthy. The focus is on the character of the records with consideration for certain earmarks of reliability." *Davolt v. Highland*, 119 S.W.3d 118, 134 (Mo.Ct.App. 2003). "Qualified business records are assumed to be accurate because they reflect entries systematically and routinely made by those with a self-interest to ensure accuracy to allow reliance on the records in the regular conduct of business." *Id.*

Based on these principles, Missouri courts have consistently held that "a witness may be competent to identify a business record and testify to the mode of its preparation even though he was not employed in the 'business' at the time the act, condition or event occurred or was recorded. The testimony of the witness as to the 'mode of preparation' need not be based on personal knowledge." *Rossomanno v. Laclede Cab Co.*, 328 S.W.2d 677, 683 (Mo. 1959). "A witness is qualified to testify regarding a business record if he or she has sufficient knowledge of the business operation and methods of

keeping records of the business to give the records probity." *Estate of West v. Moffatt,* 32 S.W.3d 648, 653 (Mo.Ct.App. 2000), *citing State v. Williamson*, 836 S.W.2d 490, 498 (Mo.Ct.App. 1992). "This is in keeping with the last clause of section 490.680 which provides that the record shall be competent 'if, in the opinion of the court, *the sources of information*, method and time of preparation were such as to justify its admission.'" (emphasis added). *Rossomanno, supra*, at 683. "To require more would, as a practical matter, seem to enforce the attendance and testimony of the various persons who co-operated in making the record, which is the very thing the Act seeks to obviate. 6 Wigmore on Evidence, 3d Ed., § 1707; and a reasonable liberality seems to be imposed by the very wording of § 490.690. To construe the act too strictly would be to repeal it." *Allen v. St. Louis Public Service Co.*, 285 S.W.2d 663, 666 (Mo. 1956).

If personal knowledge as to the creation of a business record were required for admission, a custodian of records could never testify as to the creation of records that antedate her employment, regardless of how long she continued to work in that position. *See Rossomanno*, *supra,* at 682. Similarly, if employment by the creating company were required, no business that purchased another business could ever introduce the predecessor's business records under the business records exception, as there would simply be no employee of the prior business to do so. Clearly, this is not the law, and would lead to absurd results.

Rather, Missouri courts have held that a witness may properly qualify a document under the business record exception if she is familiar with the mode of preparation and the document was transmitted to and maintained in the ordinary course of business by the

entity for which she is a custodian. *State v. Carruth*, 166 S.W.3d 589, 591 (Mo.Ct.App. 2005) (holding finger print records of the St. Louis Police Department could be qualified under the business record exception by the custodian of records of the Missouri Highway Patrol, where she was familiar with the standard procedures used to create the fingerprint cards which were then transmitted and held by the Missouri Highway patrol in the ordinary course of their business).[5] As shown below, this is the same situation presented here, and the result – the discretionary decision to admit of the business records provided to one entity by another and incorporated into that entity's records – was proper.

3. The Records At Issue Were Properly Admitted As Based on Sufficient Indicia of Their Trustworthiness

The business records proffered in this case were sponsored by Ms. Diana Eakins, an employee of Square Two Financial, formerly Collect America, of which CACH is a

[5]"That the witness was not custodian of the record at the time it was made does not disqualify the exhibit. A knowledge of the procedure by which the records are kept suffices to establish the mode of preparation. *Fisher v. Gunn,* 270 S.W.2d 869, 878 (Mo.1954). That the witness was not custodian of the record at the time of preparation, nor participated in the event the record describes, nor had personal knowledge of the entry, does not affect the competency to testify as to the mode of preparation. *Rossomanno, supra* at 683 (Mo. banc 1959)." *Piva*, *supra*, at 877.

wholly owned subsidiary. (Transcript on Appeal [hereinafter "TA"] at 16:25-17: 13). As the Court of Appeals noted, "[t]he trustworthiness of evidence is bolstered by the sponsoring witness's presence in court – i.e. availability for cross-examination – and the witness' familiarity with the exhibits." *CACH, LLC v. Askew*, 2011 WL 1119042, *1 (Mo.App. E.D. March 29, 2011), *citing C&W Asset Acquisition, LLC, supra,* 136 S.W.3d at 139. Ms. Eakins testified at trial and was available for and subject to extensive examination by Appellant's counsel on voir dire as to the foundation and admissibility of these records. (TA at 25:12-44:2, 47:20-50:2). It was only after this extensive voir dire that the trial court, in its exercise of discretion, admitted business records comprising the debt. (TA 43:22-44:4, TA 50:3).

At trial Ms. Eakins testified that she was the "keeper of records" for CACH, a buyer of distressed debt that contracts with third parties to collect those debts. (TA at 17:15-20). She explained that she had care and control of the records of CACH, and handled account resolution, including investigations of fraud and other disputes on accounts. (TA at 29:2-4). By virtue of her position, she was familiar with and had personal knowledge of the purchase and assignment of debts to CACH. (TA at 17:21-25). She also trained with many of the major banks from whom CACH purchases accounts. (TA at 48:21-24).

Ms. Eakins testified that the Bills of Sale, Exhibits 7 and 8,[6] the redacted spreadsheet listing Mr. Askew's account, Exhibit 9, and the Providian Credit Card Agreement, Exhibit 11, were part of the file related to Mr. Askew's Providian account that was transmitted to CACH in the ordinary course of CACH's business of purchasing charged off debts. She further testified that these records were maintained by her as the custodian of records, and that she was familiar with their mode of preparation, that they were prepared at or near the time of the events and recorded by persons under a business duty to do so. (TA at 20:17-21:3, 21:20-22:7, 22:15-23:11, 23:21-24:12, 44:8-46:10, 49:25-50:3). This testimony properly complied with the requirements of the Missouri Uniform Business Records as Evidence Act.

In addition to the testimony of Ms. Eakins, there were other indicia of the reliability of the records to support their admission. For example, Mr. Askew testified he had a Providian bank card and that the monthly account statements, Exhibit 2, listed Mr. Askew's proper address. (TA 7:20-9:8, 4:15-17). Additionally, the account numbers on the statements matched the account number on Exhibit 9, the list of accounts transferred to CACH. (Exhibits 2 & 9). Further, payment arrangements and payments were made by Appellant which acknowledged the transfer of the debt referenced in documents. (TA at 9:22-11:1; 50:18-52:4, 54:19-55:6, 65:16-66:1, 102:1-7, and Exhibits 3, 5, 6). When

[6]Appellant objected to the introduction of Exhibit 8, the Bill of Sale from Worldwide Asset to CACH at trial and in his appeal to the Missouri Court of Appeals, Eastern District, but has not raised its admission as error in his appeal to this Court.

examined *in toto*, the records introduced were both internally consistent, and supported the trial court's decision on admissibility of the records.

4. Numerous Other Jurisdictions Support The Circuit Court's Ruling

The Circuit Court's ruling is consistent with numerous other courts from other jurisdictions examining this issue. Cases have noted that bank records are included in a "class of records commonly viewed as particularly trustworthy." *United States v. Samaniego*, 187 F.3d 1222, 1224 n.1 (10th Cir. 1999); *see also, Federal Deposit Ins. Corp. v. Staudinger*, 797 F.2d 908, 910 (10th Cir. 1986) (allowing admission of bank records by predecessor, *quoting Weinstein's Evidence* at 803-178 (1985) for the proposition that, "[a] foundation for admissibility may at times be predicated on judicial notice of the nature of the business and the nature of the records as observed by the court, particularly in the case of bank and similar statements"); *Beal Bank, SSB v. Eurich*, 831 N.E.2d 909, 914 (Mass. 2005).

Indeed, in *Beal* the Massachusetts Supreme Judicial Court recognized "'the problem of proving a debt that has been assigned several times is of great importance to mortgage lenders and financial institutions.' Given the common practice of banks buying and selling loans, we conclude that it is normal business practice to maintain accurate business records regarding such loans and to provide them to those acquiring the loan." 831 N.E.2d at 914, *citing New England Sav. Bank v. Bedford Realty Corp.,* 246 Conn. 594, 607, 717 A.2d 713 (1998). The court held that the assignee bank was not required to provide testimony from a witness with personal knowledge of the predecessor bank's procedures for creation of records to admit the predecessor's records in an action to

recover a deficiency balance after foreclosure. Further, the court there noted that in a collection type action, a "debtor typically would have records of any payment made and thus would readily be able to demonstrate any error in prior credits or calculations." *Id.* at 914, n.4.

Similarly, in *Krawczyk v. Centurion Capital Corp.*, 2009 WL 395458 (N.D. Ill. Feb. 18, 2009), the court allowed a debt buyer's custodian of records to introduce records of the original creditor by affidavit. In reaching its decision, the court noted that the debt buyer, as CACH did here, "integrated the [creditor's] records into its own records and . . . relied upon the information provided by [the creditor] when attempting to collect on Plaintiff's defaulted debt, [and debt buyer], as a debt collector was aware of the penalties for attempting to collect bogus debts; therefore, its reliance on the records provides another assurance of reliability." *Id.* at *5. *See also Miller v. Javitch, Block & Rathbone*, 397 F.Supp.2d 991, 997-98 (N.D. Ind. 2005) (court accepted an affidavit from a debt buyer's attorney that included the history of the account assignments and account information furnished by the assignor); *Great Seneca v. Felty*, 170 Ohio App. 3d 737, 869 N.E. 2d 30 (2006) (ruling that the trial court properly admitted a credit card application and statements of account authenticated by the assignee); *Alloway v. RT Capital, Inc.*, 193 P. 3d 713 (Wy. 2008) (a debt buyer's affidavit averring that it knew that the records of the issuer were kept as part of its regularly conducted business activity and that the entries were made on those records in a timely fashion was sufficient to allow introduction of the issuer's records).

At the end of the day, the admission of business records rests on "the discretionary determination by the trial court of their trustworthiness." *C&W Asset*, *supra,* 136 S.W.3d at 138. Here, the trial court properly ruled that the debt buyer, through its qualified custodian of records, could introduce business records of its predecessors in the chain of title that had been transmitted to it and made a part of its records in the ordinary business of buying debt. The decisions outlined above are persuasive authority that the records here were properly admitted into evidence.

CONCLUSION

In 1927, Judge Learned Hand wrote:

> The routine of modern affairs, mercantile, financial and industrial, is conducted with so extreme a division of labor that the transactions cannot be proved at first hand without the concurrence of persons, each of whom can contribute no more than a slight part, and that part not dependent on his memory of the event. Records, and records alone, are their adequate repository, and are in practice accepted as accurate upon the faith of the routine itself, and of the self-consistency of their contents. Unless they can be used in court without the task of calling those who at all stages had a part in the transactions recorded, nobody need ever pay a debt, if only his creditor does a large enough business.

Massachusetts Bonding & Ins. Co. v. Norwich Pharmacal Co., 18 F.2d 934, 937 (2d Cir. 1927). The same holds true today. The very nature of the debt buying business involves the incorporation of the business records of predecessors into the debt buyer's business

records. Where the debt buyer can demonstrate the trustworthiness of these records, they should be admitted without the need of testimony by the creator of the record. To do otherwise would effectively close the courthouse doors to the debt buying industry, and could raise the cost of obtaining credit for all Missourians.

DBA respectfully request that this Court affirm the Circuit Court's judgment that a qualified witness may sponsor the business records of another entity.

November 15, 2011

Respectfully submitted,

SPENCER FANE BRITT & BROWNE LLP

By:/s/ Joshua C. Dickinson
Joshua C. Dickinson, MO #51446
1000 Walnut, Suite 1400
Kansas City, MO 64106
Telephone: (816) 474-8100
Facsimile: (816) 474-3216
E-mail: jdickinson@spencerfane.com

ATTORNEYS FOR AMICUS CURIAE, DBA INTERNATIONAL

CERTIFICATE OF COMPLIANCE AND SERVICE

I hereby certify that the foregoing Brief includes the information required by Missouri Supreme Court Rule 55.03; complies with the limitations contained in Supreme Court Rule 84.06(b); and contains 4,301 words, excluding the cover, signature block, this certification, and the certificate of service, as determined by Microsoft Office 2010 software.

/s/ Joshua C. Dickinson
Attorney for Amicus Curiae,
DBA International

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was mailed, postage prepaid, via regular U.S. Mail, on this 15th day of November, 2011, addressed to the following counsel of record, said counsel having also been served via the Court's electronic filing system:

Karen Jones
Evans & Dixon, LLC
211 N. Broadway, Suite 2500
St. Louis, MO 63102-2727
Attorney for Plaintiff/Respondent

Dennis M. Devereux
7 Pines Court, Suite C
St. Louis, MO 63141
Attorney for Defendant/Appellant

James J. Daher
James J. Daher, L.L.C.
1221 Locust Street, Suite 1000
St. Louis, MO 63103
Attorney for Defendant/Appellant

Gina Chiala
Slough Connealy Irwin & Madden LLC
1627 Main Street, Suite 900
Kansas City, MO 64108
Attorney for Amicus Curiae, National Consumer Law Center

Clinton P. Woerth
Eric B. Wetzel
Kozeny & McCubbin, L.C.
12400 Olive Boulevard, Suite 555
St. Louis, MO 63141
Attorney for Amicus Curiae, National Association of Retail Collection Attorneys

David Jay Weimer
Kramer & Frank
1125 Grand Blvd., Suite 600
Kansas City, MO 64106
Attorney for Amicus Curiae, Missouri Creditors Bar, Inc.

/s/ Joshua C. Dickinson
Attorney for Amicus Curiae,
DBA International