

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

WEST COAST BUSINESS CAPITAL, LLC,

Plaintiff,

-against-

PIERCE BAINBRIDGE BECK PRICE & HECHT
LLP D/B/A PIERCE BAINBRIDGE BECK PRICE &
HECHT, JOHN M PIERCE ENTERPRISES LLC
D/B/A JOHN M PIERCE ENTERPRISES and JOHN
M. PIERCE,

Defendants.

Index No.
Date filed:

SUMMONS

Plaintiff's Address:
116 Nassau Street, Suite 804,
New York, NY 10038

TO THE ABOVE-NAMED DEFENDANTS:

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

Plaintiff designates Erie County as the place of trial in accordance with the parties' contractual forum selection clause under CPLR § 501.

Dated: New York, New York
March 11, 2020

/s/ Vadim Serebro, Esq.
Vadim Serebro, Esq.
Attorney for Plaintiff,
West Coast Business Capital, LLC
55 Broadway, 3rd Floor
New York, New York 10006
Tel: (646) 774-3374

Defendants' Addresses:

Pierce Bainbridge Beck Price & Hecht LLP d/b/a Pierce Bainbridge
Beck Price & Hecht
600 Wilshire Blvd Ste 500
Los Angeles, CA 90017

John M Pierce Enterprises LLC d/b/a John M Pierce Enterprises
600 Wilshire Blvd Ste 500
Los Angeles, CA 90017

John M. Pierce
4600 Poe Ave
Woodland Hills, CA 91364

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

<p>WEST COAST BUSINESS CAPITAL, LLC,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">-against-</p> <p>PIERCE BAINBRIDGE BECK PRICE & HECHT LLP D/B/A PIERCE BAINBRIDGE BECK PRICE & HECHT, JOHN M PIERCE ENTERPRISES LLC D/B/A JOHN M PIERCE ENTERPRISES and JOHN M. PIERCE,</p> <p style="text-align: center;">Defendants.</p>
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Index No.

**VERIFIED
COMPLAINT**

Plaintiff West Coast Business Capital, LLC, by and through its attorney, Vadim Serebro, Esq., complaining of Defendants, above-named, respectfully sets forth and alleges as follows:

Parties

1. Plaintiff West Coast Business Capital, LLC (“Plaintiff” or “WCB”) is, and at all times relevant to this action has been, a limited liability company duly organized and existing under and by virtue of the laws of the State of New York, with an office located at 116 Nassau Street, Suite 804, New York, NY 10038.

2. At all times relevant to this action, WCB has been engaged in the business of purchasing future accounts-receivable from retail and wholesale merchants.

3. Defendant Pierce Bainbridge Beck Price & Hecht LLP d/b/a Pierce Bainbridge Beck Price & Hecht (“PBBPH” or the “Business Defendant”) is, and at all times relevant to this action has been, a limited liability company duly organized and existing under and by virtue of the laws of the State of California, with an address at 600 Wilshire Blvd Ste 500, Los Angeles, CA 90017.

4. Defendant John M Pierce Enterprises LLC d/b/a John M Pierce Enterprises (“PBBPH” or the “Business Defendant”) is, and at all times relevant to this action has been, a

limited liability company duly organized and existing under and by virtue of the laws of the State of California, with an address at 600 Wilshire Blvd Ste 500, Los Angeles, CA 90017.

5. Defendant John M. Pierce (“John” or the “Personal Guarantor”) is, and at all times relevant herein has been, an individual resident of the State of California, with an address at 4600 Poe Ave, Woodland Hills, CA 91364 (the Business Defendant and the Personal Guarantor are each a “Defendant,” and collectively, the “Defendants”).

6. Personal Guarantor is the owner, principal, and/or a manager of Business Defendant.

Jurisdiction and Venue

7. Jurisdiction and venue are proper in Erie County because Defendants transacted business in New York.

8. Furthermore, Defendants agreed to submit to the jurisdiction of any court in the State of New York including without limitation, Erie County, and have waived any and all objections to jurisdiction and venue as per the terms of a future receivables sale and purchase agreement by and between the parties, discussed in more detail below.

Facts Common to All Causes of Action

9. WCB brings this Action for breach of contract, attorney’s fees, and to enforce the personal guarantee of performance made by the Personal Guarantor.

10. On or about 12/09/2019, Business Defendant and WCB entered into a certain future receivables sale and purchase agreement (the “Agreement”) wherein the Business Defendant sold \$387,400.00 (the “Purchased Amount”) of its future receivables to WCB, to be paid to WCB from a percentage of the Business Defendant’s daily revenue, for an upfront sum of \$260,000.00 (the “Purchase Price”).

11. A true and accurate copy of the Agreement is annexed hereto as **Exhibit A**.

12. WCB fulfilled its obligation under the Agreement to provide the Purchase Price to the Business Defendant as required by the Agreement.

13. Pursuant to the Agreement, the Business Defendant was obligated to deliver WCB's Twenty Five percent (25%) share of its daily receivables to WCB on each business day.

14. Pursuant to the Agreement, Business Defendant authorized WCB to debit from its bank account, by means of an automated clearing house (ACH) debit, Twenty Five percent (25%) of Business Defendant's accounts-receivable (the "Specified Percentage"), by means of an online ACH debit, an initial fixed, agreed-upon amount from its bank account as a good faith approximation of the Specified Percentage (the "Initial Daily Installment") until such time as the Purchased Amount of receivables – \$387,400.00 – was remitted in full.

15. During the life of the Agreement and pursuant to the terms of the Agreement, Business Defendant was entitled to a reconciliation to take place at the end of each month at Business Defendant's request, whereby WCB was obligated to ensure that only the Specified Percentage was retained by WCB for that month.

16. Upon the Business Defendant's request, if the cumulative debits for any month equaled an amount greater than Twenty Five percent (25%) of the Business Defendant's accounts-receivable for that particular month, then Plaintiff was to credit the Business Defendant for the difference, whereas if the cumulative debits equaled an amount that was lower than Twenty Five percent (25%) of the Business Defendant's accounts-receivable for that particular month, then WCB was to debit the difference from the Business Defendant.

17. Business Defendant agreed to exclusively use one bank account approved by WCB (the "Account"), into which Business Defendant agreed to deposit all of its receipts, and from which WCB was to conduct its ACH debits of the Specified Percentage of said receipts.

18. The Agreement provided that in the event Business Defendant used a bank account other than the Account or Business Defendant otherwise prevented WCB from debiting the Account or its Specified Percentage of receipts, the Business Defendant was in default of the Agreement.

19. In addition, the Personal Guarantor executed a personal guarantee of performance, guaranteeing the Business Defendant's performance of its obligations under the Agreement (the "Personal Guarantee").

20. The Personal Guarantee provides that in the event of Business Defendant's default under any of the terms of the Agreement, including blocking ACH debits or depositing its accounts-receivable into a bank account other than the Account, WCB may enforce its rights against the Business Defendant under the Agreement against the Personal Guarantor, without first seeking recourse from the Business Defendant.

21. As contemplated and permitted by the Agreement, WCB filed a financing statement in accordance with Article 9 of the Uniform Commercial Code, giving WCB a perfected security-interest in the Business Defendant's accounts-receivable.

22. Initially the Business Defendant met its obligations under the Agreement and deposited its receivables into the Account from which WCB could debit the Specified Percentage.

23. On or about 02/19/2020, the Business Defendant breached the Agreement by failing to perform its obligations under the terms of the Agreement and depriving WCB of its Specified Percentage of the Business Defendant's daily receipts.

24. On or about 02/19/2020, the Business Defendant blocked WCB's access to the Account, ceased depositing its receivables into the Account, or otherwise deprived WCB of its Specified Percentage.

25. The Business Defendant continues to conduct regular business operations and is still collecting accounts receivable.

26. The Business Defendant refuses to remit the Specified Percentage of its daily receivables to WCB, has been withholding the future receivables it sold to WCB, and has refused to continue performing under the terms of the Agreement.

27. During the course of the Agreement, the unremitted sums become due and payable to WCB in full as required by WCB or pursuant to the terms of the Agreement in the event of any action constituting a default or breach of any covenants or warranties contained in the Agreement. Any outstanding balance owed by the Business Defendant at the time of default became immediately due and payable to WCB.

28. The Business Defendant defaulted under the terms of the Agreement by breaching its representations and warranties to WCB.

29. The Business Defendant has refused to remit business receivables up to the Purchased Amount due pursuant to the Agreement, despite due demand therefore.

30. The Business Defendant remitted certain receivables totaling \$217,917.00 under the Agreement to Plaintiff, leaving an unremitted balance as of this date in the sum of \$169,483.00 (the "Default Amount").

31. A true and correct copy of the transaction history under the Agreement is attached hereto as **Exhibit B**.

32. Accordingly, there remains a balance due and owing to WCB in the amount of \$169,483.00, plus interest from 02/19/2020 (the "Date of the Breach"), in addition to attorneys' fees and costs.

AS AND FOR A FIRST CAUSE OF ACTION
(Breach of Contract against the Business Defendant)

33. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs “1” through “32” above with the same force and effect, as if same were more fully set forth at length herein.

34. WCB and the Business Defendant entered into the Agreement on or about 12/09/2019.

35. WCB performed under the terms of the Agreement by paying the Purchase Price less any agreed upon amounts to the Business Defendant on or about 12/09/2019.

36. The Business Defendant partially performed under the terms of the Agreement, thereby leaving an outstanding balance of \$169,483.00.

37. The Business Defendant breached the Agreement on or about 02/19/2020.

38. As a result of the Business Defendant’s breach of the Agreement, WCB has been damaged in the amount of \$169,483.00, the full outstanding balance, plus statutory pre-judgment interest at 9% running from the Date of the Breach, its costs as taxed by the clerk, and its attorneys’ fees.

AS AND FOR A SECOND CAUSE OF ACTION
(Breach of the Personal Guarantee against the Personal Guarantor)

39. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs “1” through “38” above with the same force and effect, as if same were more fully set forth at length herein.

40. Pursuant to the Agreement, the Personal Guarantor personally guaranteed that the Business Defendant would perform its obligations thereunder and that he/she would be personally liable for any losses suffered by WCB as a result of a breach by the Business Defendant.

41. The Business Defendant has breached its obligations owed to WCB pursuant to the Agreement.

42. WCB has suffered damages as a result of the Business Defendant's failure to perform its obligations owed to WCB under the Agreement.

43. Defendant Personal Guarantor breached the personal guarantee by failing to reimburse WCB for all losses suffered by WCB as a result of the Business Defendant's breach.

44. By reason of the Personal Guarantee, the Personal Guarantor is personally liable to WCB for the damages suffered by WCB as a result of Defendant the Business Defendant's breaches of the Agreement.

45. Accordingly, the Personal Guarantor is liable to WCB in the amount of \$169,483.00, plus interest from 02/19/2020, in addition to attorneys' fees and costs.

AS AND FOR A THIRD CAUSE OF ACTION
(Attorneys' fees as against the Defendants)

46. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs "1" through "45" above with the same force and effect, as if same were more fully set forth at length herein.

47. The Agreement also provides that WCB shall recover its attorneys' fees incurred for having to enforce its rights under the Agreement in the event of a breach by the Business Defendant.

48. By reason of the foregoing, WCB is entitled to judgment against the Defendants for all the costs and disbursements of this action, including reasonable attorneys' fees.

WHEREFORE, West Coast Business Capital, LLC demands judgment against Defendants, jointly and severally, as follows:

(i) Judgment against Defendant Pierce Bainbridge Beck Price & Hecht LLP d/b/a Pierce Bainbridge Beck Price & Hecht, John M Pierce Enterprises LLC d/b/a John M Pierce Enterprises, on the First and Third Causes of Action, in the amount of \$169,483.00, plus interest from 02/19/2020, attorneys' fees and costs;

(ii) Judgment against Defendant John M. Pierce, on the Second and Third Causes of Action, in the amount of \$169,483.00, plus interest from 02/19/2020, attorneys' fees and costs; and

(iii) Judgment in favor of Plaintiff and against Defendants, jointly and severally, for the costs, disbursements and attorneys' fees of this action, together with such other and further relief as this Court may deem just and proper.

Dated: New York, New York
March 11, 2020

/s/ Vadim Serebro, Esq.
Vadim Serebro, Esq.
Attorney for Plaintiff,
West Coast Business Capital, LLC
55 Broadway, 3rd Floor
New York, New York 10006
Tel: (646) 774-3374

VERIFICATION

STATE OF NEW JERSEY)
) ss.:
COUNTY OF HUDSON)

JAMES MCNEIL, being duly sworn, states:

I am an authorized representative of Plaintiff West Coast Business Capital, LLC in the within action. I have read the foregoing Complaint against Pierce Bainbridge Beck Price & Hecht LLP d/b/a Pierce Bainbridge Beck Price & Hecht, John M Pierce Enterprises LLC d/b/a John M Pierce Enterprises and John M. Pierce and know the contents thereof; the same is true to the best of my knowledge, except as to the matters therein stated to be alleged upon information and belief and, as to those matters, I believe them to be true.

The foregoing statements are true under penalties of perjury.

[Handwritten signature of James McNeil]
JAMES MCNEIL

On March 11, 2020, before me, the undersigned Notary Public in and for said state, personally appeared JAMES MCNEIL, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she/he executed the same in her/his capacity, and that by her/his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

[Handwritten signature of Notary Public]
NOTARY PUBLIC

CHRISTINE LEUNG
NOTARY PUBLIC
STATE OF NEW JERSEY
ID # 50065935
MY COMMISSION EXPIRES AUG. 10, 2022

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

WEST COAST BUSINESS CAPITAL, LLC,

Plaintiff,

-against-

PIERCE BAINBRIDGE BECK PRICE & HECHT LLP
D/B/A PIERCE BAINBRIDGE BECK PRICE &
HECHT, JOHN M PIERCE ENTERPRISES LLC
D/B/A JOHN M PIERCE ENTERPRISES and JOHN
M. PIERCE,

Defendants.

Index No.

**NOTICE OF ELECTRONIC
FILING IN A MANDATORY
CASE (Rule § 202.5-bb)**

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

If you are represented by an attorney: Give this Notice to your attorney. Attorneys: See Information for Attorneys below.

If you are not represented by an attorney: You will be served with all documents in paper and you must serve and file your documents in paper, unless you choose to participate in e-filing. If you choose to participate in e-filing, you must have access to a computer and a scanner or other device to convert documents into electronic format, a connection to the internet, and an e-mail address to receive service of documents. The benefits of participating in e-filing include: 1) serving and filing your documents electronically; 2) free access to view and print your e-filed documents; 3) limiting your number of trips to the courthouse; 4) paying any court fees on-line (credit card needed)

To register for e-filing or for more information about how e-filing works: 1) visit: www.nycourts.gov/efile-unrepresented; or 2) contact the Clerk’s Office or Help Center at the court where the case was filed. Court contact information can be found at www.nycourts.gov.

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

Information for Attorneys - (E-filing is Mandatory for Attorneys): An attorney representing a party who is served with this notice must either: 1) immediately record his or her representation within the e-filed matter on the NYSCEF site www.nycourts.gov/efile; or 2) file the Notice of Opt-Out form with the clerk of the court where this action is pending and serve on all parties. Exemptions from mandatory e-filing are limited to attorneys who certify in good faith that they lack the computer hardware and/or scanner and/or internet connection or that they lack (along with all employees subject to their direction) the knowledge to operate such equipment. [Section 202.5-bb(e)] For additional information about electronic filing and to create a NYSCEF account, visit

the NYSCEF website at www.nycourts.gov/efile or contact the NYSCEF Resource Center (phone: 646-386-3033; e-mail: efile@nycourts.gov).

Dated: New York, New York
March 11, 2020

/s/ Vadim Serebro, Esq.
Vadim Serebro, Esq.
Attorney for Plaintiff,
West Coast Business Capital, LLC
55 Broadway, 3rd Floor
New York, New York 10006
Tel: (646) 774-3374

Index No.	Year	RJI No.	Hon.
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

WEST COAST BUSINESS CAPITAL, LLC,

Plaintiff,

-against-

PIERCE BAINBRIDGE BECK PRICE & HECHT LLP D/B/A PIERCE BAINBRIDGE BECK
PRICE & HECHT, JOHN M PIERCE ENTERPRISES LLC D/B/A JOHN M PIERCE
ENTERPRISES and JOHN M. PIERCE,

Defendants.

SUMMONS & VERIFIED COMPLAINT

VADIM SEREBRO, ESQ.
Attorney for Plaintiff

Office and Post Office Address, Telephone
55 BROADWAY
3RD FLOOR
NEW YORK, NEW YORK 10006
TEL: (646) 774-3374
FAX: (347) 960-5110

Service of a copy of the within is hereby admitted.

Dated,

Attorney(s) for