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## Pierce Bainbridge Funder Says Firm Defaulted On Debt

By **Ryan Boysen**

Law360 (June 1, 2020, 6:22 PM EDT) -- Litigation funder Virage Capital Management claims Pierce Bainbridge has defaulted on debt the ailing law firm racked up over the past year, estimated by current and former attorneys at \$65 million, as Virage bids to block a competing creditor from collecting on a much smaller debt in Texas state court.

In a motion to intervene filed Friday, Virage said it should be paid back ahead of Creative Capital Funding LLC, a merchant cash advance lender that sued Pierce Bainbridge and its founder John Pierce last month seeking about \$280,000 in compensation for an unpaid loan. Virage said it already held liens on all of Pierce Bainbridge's assets when Pierce took out the loan with Creative, allegedly using the firm's assets as collateral.

Creative's complaint doesn't specify when Pierce took out the loan or the amount. Virage's motion says the Creative deal was signed in January.

Virage also said Creative should hand over any money it's already received from Pierce Bainbridge, although it's unclear whether it has received any since the loan was taken out.

"To the extent that CCF is in possession of funds that are rightfully owed to or which belong to Virage, CCF has an equitable duty to convey these funds to Virage," the lender said.

Virage did not specify the amount of Pierce Bainbridge's debt in Friday's filing, but a previous Law360 investigation found that the firm owes the funder roughly \$65 million in total.

Creative was the third merchant cash advance lender to **sue Pierce and Pierce Bainbridge** over allegedly unpaid loans since March. Those lenders are seeking a total of about \$500,000.

Another MCA lender, Karish Kapital, **said last week** that Pierce and his firm owe it nearly \$4 million over an unpaid \$2.5 million debt. Pierce signed a confession of judgment admitting to that debt, a move that headed off a full-on lawsuit.

The MCA recovery actions come at the tail end of a dramatic disintegration at Pierce Bainbridge, which employed 70 attorneys last summer and employed about 10 as of last month, according to John Pierce.

That decline in headcount has left Virage, which began lending to Pierce Bainbridge in April 2019, **scrambling to figure out** how to collect on the \$65 million debt the firm has racked up since then.

Friday's filing appears to be the first time Virage has said in writing that Pierce Bainbridge has defaulted on that debt.

Pierce Bainbridge said in March that John Pierce had been placed on leave after an internal investigation revealed he'd taken out the Karish Kapital loan and used the firm's assets as collateral. Nearly 20 attorneys left the firm shortly thereafter.

In April, Pierce Bainbridge's remaining attorneys were told the firm would soon be **shutting down**,

but two weeks later John Pierce told Law360 the firm was "alive and well" and in rebuilding mode.

He said there may have "been some wires crossed," because he was not actively running the firm at the time. He denied that he'd been placed on leave, however, and said in reality he'd stepped back from Pierce Bainbridge to attend rehab for substance abuse and other addictive behaviors.

John Pierce declined to comment on Virage's motion to intervene but has **previously told Law360** that he took out the MCA loans to pay the medical bills for a family member with a health emergency.

Counsel for Pierce Bainbridge in the Creative case declined to comment Monday.

Virage's argument in Friday's motion implies the three other MCA loans besides Creative's were also taken out after Virage already held liens on Pierce Bainbridge's assets. If that's the case, Virage could likely argue that any repayment of those loans should also wait until after its own \$65 million debt has been paid off.

Two of those lawsuits, filed by Slate Advance LLC and West Coast Business Capital LLC, state that Pierce Bainbridge had repaid a total of nearly \$800,000 before Pierce and his firm defaulted on the loans, potentially leaving the door open for Virage to demand a clawback of that money.

As of Monday afternoon, Virage doesn't appear to have filed anything in those cases.

West Coast said the deal between it and John Pierce was signed Dec. 9, and Slate Advance said its contract with Pierce was signed Nov. 18.

Virage did not respond Monday to a request for comment.

Virage is represented by Marc S. Tabolsky and Varant Yegparian of Schiffer Hicks Johnson PLLC.

John Pierce and Pierce Bainbridge are represented by Edward D. Altabet of Cohen Seglias Pallas Greenhall & Furman and Ty Doyle of Smyser Kaplan & Veselka LLP.

Creative is represented by Anh H. Regent of Regent & Associates.

The cases are Creative Capital Funding LLC v. Pierce Bainbridge Beck Price & Hecht LLP et al., case number 2020-25857, in the District Court of Harris County, Texas; West Coast Business Capital LLC v. Pierce Bainbridge Beck Price & Hecht LLP et al., case number 803696/2020, in the Supreme Court of the State of New York, County of Erie; Slate Advance LLC v. Pierce Bainbridge Beck Price & Hecht LLP et al., case number 604227/2020, in the Supreme Court of the State of New York, County of Nassau; and Karish Kapital LLC v. Pierce Bainbridge Beck Price & Hecht LLP et al., case number unavailable, in the Supreme Court of the State of New York, County of New York.

--Editing by Orlando Lorenzo.