

**IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

Aeon Financial, LLC
C/o: SCHWARTZ & ASSOCIATES, LLP
27 North Wacker Drive #503
Chicago, Illinois 60606
Attorneys for Plaintiff

Plaintiff,

vs.

The Honorable Mayor Adrian M. Fenty
Mayor of The District of Columbia
1350 Pennsylvania Avenue, NW #419
Washington, D.C. 20004

Serve:
Attorney General of the District of Columbia
Attn: Darlene Fields
441 4th Street, N.W.
Washington, D.C. 20001

AND

Natwar M. Gandhi, CFO
Office of the Chief Financial Officer
1350 Pennsylvania Avenue, NW, Suite 203
Washington, DC 20004

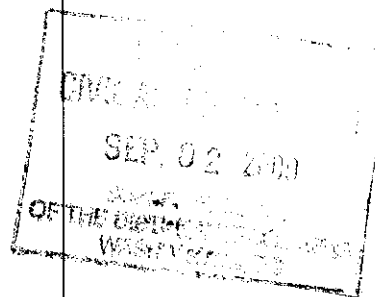
Serve:
Attorney General of the District of Columbia
Attn: Darlene Fields
441 4th Street, N.W.
Washington, D.C. 20001

Defendants.

Civil Action No.: 2009 CA _____

Calendar:

Next Court Event:



**COMPLAINT AND MOTION FOR AFFIRMATIVE PERMANENT INJUNCTION TO
COMPEL THE DISTRICT OF COLUMBIA TO SELL ALL REAL PROPERTY IN ARREARS
AT THE TAX SALE SCHEDULED FOR SEPTEMBER 9, 2009 AND TO VOID REGULATION
317.1 OF THE DCMR**

The Plaintiff, Aeon Financial, LLC (hereinafter "Aeon"), by and through the undersigned, respectfully represents unto this Honorable Court the following:

NATURE OF THE CASE

1. That all allegations of fact and law and the Exhibits and Memorandum filed in the instant matter, as more fully recited in the Plaintiff's Motion for Emergency Temporary Restraining Order are incorporated herein by reference.
2. This is an action for affirmative injunctive relief to require that the District of Columbia abide by the explicit statutory language in conducting the 2009 Real Property Tax Sale (hereinafter, "Tax Sale") which was originally scheduled for July 27, 2009, but which was postponed once by the Office of Tax and Revenue (herein after the "OTR"), in part, due to the Plaintiff's demand to postpone the Tax Sale because of irregularities in the prior tax sales and certain failures of the OTR to adhere to statutory mandates found in Division VIII, Title 47, Chapter 13A of the District of Columbia Code, Annotated, 2001, (hereinafter "the Tax Sale Statute").
3. The 2009 Tax Sale for the District of Columbia, hereinafter the "District," is currently scheduled for September 9, 2009 to begin at 9:00 a.m. See Exhibit "1" Notice of Real Property Tax Sale, incorporated herein by reference.
4. The Plaintiff seeks an Order from this Court requiring that the OTR, comply with the Tax Sale Statute or cancel the Tax Sale in its entirety.
5. This action is based upon the information received by representatives of the Plaintiff from the OTR, that the OTR intends to violate the explicit language contained in §47-1332 (a) of the Tax Sale Statute by arbitrarily and capriciously refusing to sell ALL parcels which have a tax arrearage. The OTR has indicated to the Plaintiff and others, that despite having advertised, consistent with §47-1332 (a), that ALL properties for which a real property tax arrearage exists on September 9, 2009 will be sold at the auction, that the OTR intends to withdraw from the Tax Sale any parcel for which such arrearage is less than \$1,200. See Exhibit "2", Affidavit of Michael Wehenkel, Chief Operations Officer for the Plaintiff, attached hereto and incorporated herein by reference.
6. The Plaintiff has been a significant investor in the District's Tax Sales for the past three (3) years. In 2006, the Plaintiff invested over \$2,600,000.00 and purchased 252 liens which was 15% of the total number of Tax Liens sold, in 2007 the Plaintiff invested over \$4,400,000.00 and purchased 307 liens which was 18% of the total number of Tax Liens sold and in 2008, the Plaintiff invested over \$4,600,000.00 and purchased 445 liens which was 35% of the total number of Tax Liens sold. The total investment of the Plaintiff in the District for those three (3) Tax Sales is in excess of Eleven Million Dollars (\$11,000,000.00). See Exhibit "3", attached hereto and incorporated herein by reference (Table of Historical Investments).

7. The OTR has historically violated the statutory mandates contained in the Tax Sale Statute and despite repeated attempts by the Plaintiff to voluntarily obtain the OTR's compliance with Tax Sale Statute, the OTR has refused or failed to comply with a substantial number of the mandated procedural protections contained in the explicit language of the Tax Sale Statute as more fully outlined in the facts stated below. See Exhibits 2, supra and 9 and 10, infra.
8. The OTR's intended course of action will irreparably harm the Plaintiff and any other Tax Sale Purchaser who participates in the 2009 Tax Sale, because, any aggrieved party whose property has an arrearage of \$1,201.00 or more will be able to claim that the 2009 Tax Sale which sold their particular parcel was defective and will be able to seek to have the entire Tax Sale set-aside as an aggrieved parcel owner since they will justifiably be able to claim as a direct result of the failure of the OTR to abide by the clear language of §47-1332 (a), that they were denied due process, adequate notice and were subject to de facto economic discrimination in the process of the Tax Sale.

JURISDICTION AND VENUE

9. Jurisdiction of this Court is founded on §11-921, *et seq.* of the D.C. Code (2001), Rule 65 of the Superior Court for the District of Columbia and Title 28 U.S.C. § 2201.
10. Venue is proper in this Court, because the Defendants perform their official functions in the District of Columbia and all or substantially all of the events, acts or omissions giving rise to the Plaintiff's cause of action occurred in the District of Columbia.

PARTIES

11. That the Plaintiff is a limited liability company organized under the laws of the State of Illinois and duly qualified to do business in the District of Columbia.
12. That the Defendant, Adrian M. Fenty, is the Mayor of the District of Columbia and is named in his official capacity.
13. That the Defendant, Natwar M. Gandhi, is the Chief Financial Officer of the District of Columbia and is named in his official capacity.

Allegations of Fact, Law and Irreparable Harm

14. All statements in paragraphs 1 through 12 above are incorporated herein by reference as if repeated verbatim herein.
15. That the Plaintiff intends to participate in the 2009 Tax Sale, and has completed the mandatory registration which began on August 31, 2009 and will end on the final day of the sale, however, no registrations will be accepted on September 7 and 8, 2009 and prior to bidding as the Sale a putative purchaser must deposit at least 20% of the amounts it intends to bid as the total purchase price for each lien. See Exhibit 1, supra.
16. That the District's Tax Sale statute in §47-1332 (a) clearly states: "The Mayor shall sell all real property on which the tax is in arrears unless otherwise provided by law."
17. That there are no regulations or other statutory provisions upon which the OTR can rely to set a threshold for exempting any particular parcel from Tax Sale.
18. That the District has published on its website and distributed to the public a brochure, where in it indicates that once the list of properties which are in arrears has been advertised, that only those properties where the property taxes are satisfied will be deleted from the Tax Sale List. See Exhibit "4", attached hereto and incorporated herein by reference.
19. That as a result of the fraud and scandal at the OTR, which came to light in 2007, the District postponed the 2008 Tax Sale for two months and publically stated that a postponement would not impair its ability to collect taxes. See Exhibit "5", attached hereto and incorporated herein by reference.
20. That the District, despite postponing the sale 2008 for more than sixty (60) days to September 17-19, 2008, still failed to sell ALL properties for which taxes were due, in disregard of the clear mandate contained in §47-1332(a) of the Tax Sale Statute. That failure to sell those properties occurred even though all properties with any amount in arrears were advertised for sale.
21. The Plaintiff believes and therefore avers that based upon representations from employees at the OTR, that in 2008, no properties with a balance less than \$1,000.00, were sold at the 2008 Tax Sale held in September 2008 which reduced the total number of actually auctioned properties to 65% of the number which the statute required to be sold. See Exhibits 6, attached hereto and incorporated herein by reference.

22. That the Plaintiff raised the issue of the failure to sell all properties with arrearages in prior tax sales with the OTR at a meeting with the senior officials at the Office of the Chief Financial Officer and from OTR on June 15, 2009.
23. That during the course of that meeting, the OTR and its counsel requested a list of specific issues which concerned the Plaintiff and which the Plaintiff contended needed to be resolved prior to the OTR holding the 2009 Tax Sale. See Exhibit 7 attached hereto and incorporated herein by reference.
24. That the General Counsel for the OTR, Alan Levine, in response to an email from counsel, a phone conversation with counsel for the Plaintiff and counsel for other Tax Sale Purchasers from the 2008 Tax Sale, correspondence from the Plaintiff and others and the list of issues submitted to the OTR on June 15, 2009, sent an email confirming OTR's agreement to postpone the 2009 Tax Sale. See Exhibit 8 attached hereon and incorporated herein by reference.
25. That in an effort to resolve those issues, OTR volunteered to delay the 2009 Tax Sale until September 9, 2009 with the goal of restructuring their operations to better operate the Tax Sale and comply with the statute.
26. That now, some 2 ½ months later, in contradiction to the Notice published, the OTR has indicated it will **not** abide by the statute and the request of the Plaintiff that ALL properties with arrearages be sold at the 2009 Tax Sale.
27. That as a result of the current inefficiencies of the District in managing the Tax Sale process and the District chronic disregard and blatant violation of the statutory mandates, including this action there are three (3) major legal actions pending or in the process of being filed against the District arising out of those deficiencies, namely:
 - (a) VCRT Trust v. The District of Columbia, et al. Case No. 09-CV-00944-RMU, in the United States District Court for the District of Columbia, wherein the plaintiff in that action alleges, inter alia, that as a tax sale purchaser for the years 2001 through 2005, that the District has failed or unjustifiably refused, in clear violation of the Tax Sale Statute, to refund tax sale redemptions to it in excess of \$500,000.00. See Exhibit 9, attached hereto and incorporated herein by reference.
 - (b) Aeon Financial, LLC v. Fenty et al. Case No. 2009 CA 001177 R(RP), in the Superior Court for the District of Columbia,

wherein the Plaintiff,¹ alleges, inter alia, that failures of the OTR to deliver to it Certificates of Sale under the express language of the Tax Sale Statute for 37 liens purchased by it at the September 2008 Tax Sale and the failures of the OTR to give notice for other liens, to make prompt and correct refunds, and to comply with the statutory language with respect to its handling of liens for years prior to and including the 2008 Tax Sale. See Exhibit 10, attached hereto and incorporated herein by reference.

(c) The instant action.

28. That the Plaintiff is not seeking to enjoin the collection of taxes nor to impair the District's ability to function, to the contrary, the Plaintiff seeks to mandate that the District comply with the statute in the holding of the 2009 Tax Sale and utilize the statute as intended to assist in the collection of taxes.
29. That the Plaintiff is aware at least two large tax sale purchasers that are currently unwilling to participate in the currently scheduled 2009 Tax Sale, and will not participate due to the deficiencies and failures of the OTR to abide by the statute in managing the past sales. See Exhibit 11, attached hereto and incorporated herein by reference. (Letter to Adrian Fenty and Natwar M. Gandhi from Counsel for District Tax Services, LLC Capitol Tax Services, LLC Embassy Tax Services, LLC Potomac Tax Services, LLC) and See Exhibit 2, supra.
30. That similarly, the Plaintiff sent a letter on June 9, 2009 to Councilman Jack Evans, outlining substantially, the same issues as the second largest D.C. Tax Sale Purchaser, regarding the substantial deficiencies in the operation of the OTR. See Exhibit 12, attached hereto and incorporated herein by reference.
31. That Aeon, District Tax Services, LLC Capitol Tax Services, LLC Embassy Tax Services, LLC Potomac Tax Services, LLC and VCRT Trust, in 2008 purchased 50% of the 2008 Tax Sale. See Exhibit 3, supra.

¹ Aeon Financial, IV is an affiliated entity with the Plaintiff and participated in the 2008 Sale as such.

32. That if permitted, the withdrawal by the OTR of any parcel with less than \$1,200 of taxes in arrears will result in a more than 42% reduction of the total number of parcels advertised for sale.
33. That the Plaintiff will suffer irreparable harm if the 2009 Tax Sale is held and the OTR is arbitrarily permitted to withdraw any parcel with arrearages less than \$1,200, in that not only will the Plaintiff and other potential bidders, be denied the opportunity to bid on those parcels, but that the withdrawal of those parcels will expose the entire Tax Sale, including any parcels purchased by the Plaintiff, to direct legal attack by those parcel owner's who owed more than \$1,200.00. The parcel owners who owed more than \$1,200.00 will be able to attack the sale in Court and seek to have the sale set-aside as the withdrawal by the OTR will have been done in conflict with the Notice of Real Property Tax Sale and the Tax Sale Statute. Those adversely affected parcel owners will claim having been denied proper notice, having been denied due process, and having been discriminated against based upon economic status without any statutory or regulatory language which would legally permit the OTR to arbitrarily make the decision to sell some but not all of the parcels for which arrearages existed at the time of sale.
34. That the harm is additionally, irreparable because any purchases made by the Plaintiff would be unreasonably exposed to the defenses stated above and clearly those defenses would defeat the legislative intent of the express language contained in §47-1384 as those defenses would discourage the filing of foreclosure actions and would impair the Superior Court's ability to decree marketable title to those properties sold by the Mayor.
35. That the harm is also irreparable because the purchase of liens will result in the Plaintiff being unable to obtain fee simple interests in those properties not redeemed, but instead the sale of those tax liens will likely be set aside by the Court due to the lack of due process, the arbitrary and capricious withdrawal of certain parcels by the OTR coupled with potential claims of discrimination against certain parcel owners based upon economic status.
36. That the harm is further irreparable, due to the unique nature of real property, as such there is no adequate remedy in damages that can be awarded to the Plaintiff, as the opportunity to purchase any parcel unlawfully withdrawn will be forever lost, if the 2009 Tax Sale proceeds without the sale of all properties. Once withdrawn, the Plaintiff will lose the right to bid on those properties.

37. That the harm is imminent and requires an immediate Order, because, before the Plaintiff can bid at the Tax Sale, it must deposit at least 20% of the amount it intends to purchase at the Tax Sale. However, without knowing the total amount of the liens to be sold, it is impossible for the Plaintiff to deposit the correct amount with the D.C. Treasurer prior to the Tax Sale, if the Court grants the Plaintiff's Petition, then the Plaintiff will be able to make its deposit based upon the statute and the list of properties advertised. If the Petition is not granted, that Plaintiff, would at best only be able to guess, which properties might ultimately have an arrears balance of less than \$1,200.00, especially, since the records of the OTR for payments made prior to the sale, but subsequent to the advertisement of the sale are only accessible to the OTR and therefore, there is no due diligence that the Plaintiff can do to determine which properties have less than a \$1,200 arrearage on the date of sale, and would be irreparably harmed by either, not being able to register and competitively bid at the sale not being able to accurately calculate the amount of the deposit required to meet the 20% due, or would be harmed by depositing an excess deposit with the D.C. Treasury, which would not earn interest and which has historically taken up to six (6) months to be refunded, thereby unreasonably and unjustifiably preventing the Plaintiff from investing that excess deposit in other jurisdictions tax sales. See Exhibit "2", supra.

38. That the Anti-Injunction Statute found at §47-3307, ordinarily divests this Court of jurisdiction where a party seeks to enjoin the assessment or collection of taxes. However, there are two notable exceptions to that general principle.

(a) First, an action for injunctive relief will lie where the party can demonstrate that there is no likelihood that the District will prevail on the merits of the claim. Clearly there is no basis or defense that the District can raise that permits it to violate the statute.

(b) Second, that there is no other relief which will afford the Plaintiff an adequate legal remedy as stated in *District of Columbia v. Craig*. The Plaintiff avers that if the sale is held, the entire sale will be subject to upset and that will completely undermine that integrity of the Tax Sale process and will violate the public trust placed in the OTR. That even if awarded damages for the District's flagrant disregard of the statute, the opportunity to invest and obtain a return

on that investment in those properties not sold cannot be adequately compensated and that but for the District's violation of §47-1332 (a) that opportunity would be present. Further, the District has in other proceedings argued, that it is not subject to damages for its failure to abide by the statutory requirements in holding and managing tax sales, as its liability is limited to obligations created under the Tax Sale Statute and the case law the District contends is controlling. While the Plaintiff, disputes the District's position, if true, the Plaintiff would not have ANY recourse against the District to recover damages for withdrawing those properties unlawfully from the 2009 Tax Sale, thereby depriving the Plaintiff of any adequate legal remedy. See Exhibit 15 attached hereto and incorporated herein by reference (Plaintiff's Memorandum).

39. That Exhibits 1 and 4, supra were prepared by the District for the 2009 Tax Sale, and as general information to be distributed to the public, tax sale purchasers and on the world wide web each clearly states that the District intends to sell ALL real properties described on the list for which real property taxes were levied and in arrears at the Tax Sale to be held on Wednesday, September 9, 2009.
40. Further, in Exhibit 4 the OTR clearly states: "***Real Property taxes are the responsibility of every property owner in the District of Columbia. Revenue from these taxes supports city programs and facilities, including schools, libraries, police, fire and other emergency systems, and street cleaning and repair. When property taxes become delinquent, however, the loss of revenue threatens the city's infrastructure.***" The OTR is not saying that real property taxes are the responsibility of only those owners who owe more than \$1,200 in arrears. If the sale is permitted to proceed and parcels are withdrawn based upon an arbitrary and unlawful threshold, the integrity of the Tax Sale process will be further tarnished as the Notice fails to advise the parcel owner and putative tax sale purchasers of the possibility of that those properties will be withdrawn.
41. That on August 31, 2009 at 10:00 a.m. the Plaintiff's Chief Operations Officer contacted the OTR and advised the OTR that he considered the \$1,200 threshold as an unlawful attempt to avoid the mandates of the subsequent to the Plaintiff, putting the OTR on notice that unless the OTR confirmed in writing that it would abide by §47-1332 (a). See Exhibit 13 attached hereto and incorporated herein by reference.

42. Subsequent to that conversation and email to the OTR, counsel for the Plaintiff received a copy from general counsel for the OTR of an emergency and proposed rule making notice indicating that OTR was attempting to create a regulation which contravenes the express language contained in the statute. See Exhibit 14 attached hereto and incorporated herein by reference.
43. That the OTR does not have the authority to enact Emergency Regulations under the D.C. Code, as it is not an “independent agency” within the meaning for §2-502 of Division I, Title 2, Chapter 5, Subchapter I.
44. Further, the OTR does not have the authority which is solely vested in the Mayor, to determine that the adoption of a rule is necessary for the immediate preservation of the public peace, health, safety, welfare or morals.
45. Further, even if such authority did exist in OTR, rather than in the Mayor as §2-505(c) requires, the Emergency Rule, on its face, does not preserve the public peace, health, safety, welfare or morals, but rather, irreparably harms the public by restricting tax revenue tax collection by an estimated \$ \$6.6 Million Dollars.
46. That by its own terms, the Emergency Rule states that it was enacted to “maximize the efficient operation of the tax sale” and it does not state that the rule is required directly for the immediate and emergent preservation of the public peace, health, safety, welfare or morals. The Emergency Rule, instead, attempts to boot strap the revenue from the Tax Sale as being essential to the budget which is in turn required for the preservation of the public peace, health, safety, welfare or morals.
47. That OTR has stretched the intent of the emergency rule making power of the government to attempt to include the efficient operation its agencies as a criteria for emergency rule making, and that does not meet the statutory requirement of §2-505(c). OTR cannot simply invoke the emergency power of rule making to avoid a clear statutory mandate, because it cannot manage its assigned tasks efficiently. It must go through the full rule making requirements for Public Notice and participation found in §2-505 (a).
48. That if this Court enters a Temporary/Permanent affirmative injunction against the District requiring it to sell ALL properties under §47-1332 (a), then District will not incur any damages, and instead, the District reaps the benefit of being able to collect an estimated additional \$6.6

Million Dollars² in tax revenues from the Tax Sale for the properties OTR intends to withdraw, and the District will also have deposited into its coffers the amounts paid by the Tax Sale Purchases for the Surplus, which historically is an amount double or even triple the amount of taxes collected. Therefore, even though it is highly unlikely that the District will prevail on the merits, the District would suffer no damages for being compelled to comply with the law.

49. That the costs to the District, in the highly unlikely event that the Plaintiff would fail to prevail on the merits, are nominal, at best.
50. If, as admitted, OTR simply cannot manage a “full” sale as §47-1332 (a) requires, then OTR must be enjoined from holding a “partial”, until it can. OTR’s plan to hold an illegal “partial” sale for a second year in a row, in clear violation of §47-1332 (a), must be stopped as it irreparably harms property owners, tax sale purchasers, and the public.

WHEREFORE, FOR THE REASONS STATED ABOVE, Plaintiff prays:

- A. **THAT**, this Court issue a Permanent Restraining Order directing the District to fully comply with §47-1332 (a) and sell ALL properties which were advertised for sale, if at the time of the sale, an arrears exists or if it refuses to comply, enjoin the sale from going forward.
- B. **THAT**, this Court issue an Order declaring Emergency Rule Subsection 317.1 of Section 317 of Chapter 3 of Title 9 DCMR which was promulgated in response to the Plaintiff’s demand that the District act in conformity with the statute as being inconsistent with the express language of the Tax Sale Statute and, therefore, of no force and effect.
- C. **THAT** given the minimal costs to the District, in the highly unlikely event it would prevail, the any bond posted for the entry of the Temporary Restraining Order would be sufficient and permit that Bond to stand for this Order.
- D. **THAT**, the Plaintiff be awarded such other and further relief as the nature of this case may require.

² \$1.2 Million in tax arrearages and \$5.4 Million in other taxes due, which will have to be paid to redeem the parcel

ORAL HEARING REQUESTED

Respectfully submitted,

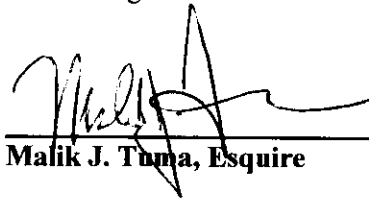


Malik J. Tuma, Esquire Bar No. 420616
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Direct: mjt@swzlawfirm.com
Web: www.swzlawfirm.com
ATTORNEYS FOR PLAINTIFF

Dated: September 2, 2009

CERTIFICATE OF COMPLIANCE WITH SCR – CIVIL RULE 65-(a)(1)

I hereby certify that I called the Office of the Attorney General for the District of Columbia and spoke with David A. Bradley, Esquire, and the Office of General Counsel for the Office of Tax and Revenue and spoke with Alan Levine, Esquire, on August 31, 2009 and again attempted to speak with Mr. Levine on September 1, 2009 and did speak with Mr. Bradley advising them that I intended to appear before this Court on Wednesday, September 2, 2009 to seek the relief stated in the foregoing Complaint, and sent by email Notice of my intention and did on September 2, 2009 email a full copy of the Complaint, Exhibits and proposed order for same to each of them. I further requested that the District consent to the relief requested and did not receive such consent prior to the filing hereof.



Malik J. Tuma, Esquire

Superior Court of the District of Columbia
CIVIL DIVISION
500 Indiana Avenue, N.W., Room JM-170
Washington, D.C. 20001 Telephone: 879-1133

Aeon Financial, LLC

Plaintiff,

(Action Involving Real Property)

VS.

The Honorable Mayor Adrian M. Fenty
Mayor of The District of Columbia, et al.

Calendar:
Judge
Next Court Event:

Defendant.

eFiled Case

Natwar M. Gandhi, CFO

Serve: Attorney General of the District of Columbia
Attn: Darlene Fields
441 4th Street, N.W.
Washington, D.C. 20001

SUMMONS

To the above named Defendant:

You are hereby summoned and required to serve an Answer to the attached Complaint, either personally or through an attorney, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you are being sued as an officer or agency of the United States Government or the District of Columbia Government you have sixty (60) days after service of this summons to serve your Answer. A copy of the Answer must be mailed to the attorney for the party plaintiff who is suing you. The attorney's name and address appear below. If plaintiff has no attorney, a copy of the Answer must be mailed to the plaintiff at the address stated on this Summons.

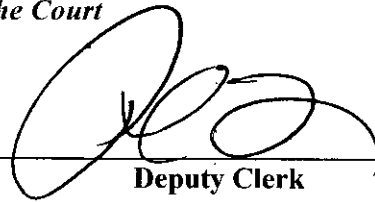
You are also required to file the original Answer with the Court in Room JM 170 at 500 Indiana Avenue, N.W., between 8:30 a.m. and 5:00 p.m., Mondays through Fridays or between 9:00 a.m. and 12:00 noon on Saturdays. You may file the original Answer with the Court either before you serve a copy of the Answer on the plaintiff or within five (5) days after you have served the plaintiff. If you fail to file an Answer, judgment by default may be entered against you for the relief demanded in the complaint.

Name of Plaintiff's Attorney

Malik J. Tuma, Esquire, Unified Bar No. 420616
SCHWARTZ & ASSOCIATES, LLP
27 North Wacker Drive, #503
Chicago, Illinois 60606
Ph: (800) 689-5203
Fax: (240) 238-9241
Direct: mjt@swzlawfirm.com
Web: www.swzlawfirm.com
ATTORNEYS FOR PLAINTIFF

Clerk of the Court

By: _____



Deputy Clerk

Date: _____

9-2-09

PUEDE OBTENERSE COPIAS DE ESTE FORMULARIO EN ESPANOL EN EL TRIBUNAL SUPERIOR DEL DISTRITO DE COLUMBIA, 500 INDIANA AVENUE, N.W., SALA JM 170

YOU MAY OBTAIN A COPY OF THIS FORM IN SPANISH AT THE SUPERIOR COURT OF D.C., 500 INDIANA AVENUE, N.W., ROOM JM 170

NOTE: SEE IMPORTANT INFORMATION ON BACK OF THIS FORM

**Superior Court of the District of Columbia
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Washington, D.C. 20001 Telephone: 879-1133**

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1350 Pennsylvania Avenue, NW, Suite 203
Washington, DC 20004

SUMMONS

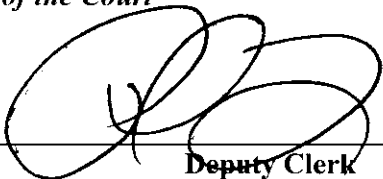
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Name of Plaintiff's Attorney
Malik J. Tuma, Esquire, Unified Bar No. 420616
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ATTORNEYS FOR PLAINTIFF

Clerk of the Court

By:  Deputy Clerk

Date: 9-22-07

PUEDE OBTENERSE COPIAS DE ESTE FORMULARIO EN ESPANOL EN EL TRIBUNAL SUPERIOR DEL DISTRITO DE COLUMBIA, 500 INDIANA AVENUE, N.W., SALA JM 170

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To the above named Defendant:

You are hereby summoned and required to serve an Answer to the attached Complaint, either personally or through an attorney, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you are being sued as an officer or agency of the United States Government or the District of Columbia Government you have sixty (60) days after service of this summons to serve your Answer. A copy of the Answer must be mailed to the attorney for the party plaintiff who is suing you. The attorney's name and address appear below. If plaintiff has no attorney, a copy of the Answer must be mailed to the plaintiff at the address stated on this Summons.

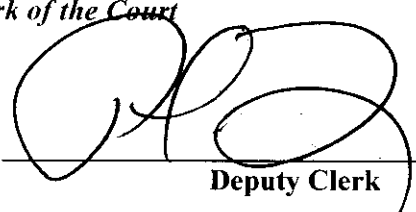
You are also required to file the original Answer with the Court in Room JM 170 at 500 Indiana Avenue, N.W., between 8:30 a.m. and 5:00 p.m., Mondays through Fridays or between 9:00 a.m. and 12:00 noon on Saturdays. You may file the original Answer with the Court either before you serve a copy of the Answer on the plaintiff or within five (5) days after you have served the plaintiff. If you fail to file an Answer, judgment by default may be entered against you for the relief demanded in the complaint.

Name of Plaintiff's Attorney

Malik J. Tuma, Esquire, Unified Bar No. 420616
SCHWARTZ & ASSOCIATES, LLP
27 North Wacker Drive, #503
Chicago, Illinois 60606
Ph: (800) 689-5203
Fax: (240) 238-9241
Direct: mjt@swzlawfirm.com
Web: www.swzlawfirm.com
ATTORNEYS FOR PLAINTIFF

Clerk of the Court

By: _____



Deputy Clerk

Date: _____

9-02-07

PUEDE OBTENERSE COPIAS DE ESTE FORMULARIO EN ESPANOL EN EL TRIBUNAL SUPERIOR DEL DISTRITO DE COLUMBIA, 500 INDIANA AVENUE, N.W., SALA JM 170

YOU MAY OBTAIN A COPY OF THIS FORM IN SPANISH AT THE SUPERIOR COURT OF D.C., 500 INDIANA AVENUE, N.W., ROOM JM 170

NOTE: SEE IMPORTANT INFORMATION ON BACK OF THIS FORM

Superior Court of the District of Columbia
CIVIL DIVISION
500 Indiana Avenue, N.W., Room JM-170
Washington, D.C. 20001 Telephone: 879-1133

Aeon Financial, LLC

Plaintiff,

(Action Involving Real Property)

VS.

The Honorable Mayor Adrian M. Fenty
Mayor of The District of Columbia, et al.

Calendar:
Judge
Next Court Event:

Defendant.

eFiled Case

The Honorable Mayor Adrian M. Fenty
Mayor of The District of Columbia
1350 Pennsylvania Avenue, NW #419
Washington, D.C. 20004

SUMMONS

To the above named Defendant:

You are hereby summoned and required to serve an Answer to the attached Complaint, either personally or through an attorney, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you are being sued as an officer or agency of the United States Government or the District of Columbia Government you have sixty (60) days after service of this summons to serve your Answer. A copy of the Answer must be mailed to the attorney for the party plaintiff who is suing you. The attorney's name and address appear below. If plaintiff has no attorney, a copy of the Answer must be mailed to the plaintiff at the address stated on this Summons.

You are also required to file the original Answer with the Court in Room JM 170 at 500 Indiana Avenue, N.W., between 8:30 a.m. and 5:00 p.m., Mondays through Fridays or between 9:00 a.m. and 12:00 noon on Saturdays. You may file the original Answer with the Court either before you serve a copy of the Answer on the plaintiff or within five (5) days after you have served the plaintiff. If you fail to file an Answer, judgment by default may be entered against you for the relief demanded in the complaint.

Name of Plaintiff's Attorney
Malik J. Tuma, Esquire, Unified Bar No. 420616
SCHWARTZ & ASSOCIATES, LLP
27 North Wacker Drive, #503
Chicago, Illinois 60606
Ph: (800) 689-5203
Fax: (240) 238-9241
Direct: mjt@swzlawfirm.com
Web: www.swzlawfirm.com
ATTORNEYS FOR PLAINTIFF

Clerk of the Court

By: _____

Deputy Clerk

Date: 9-22-09

PUEDF OBTENERSE COPIAS DE ESTE FORMULARIO EN ESPANOL EN EL TRIBUNAL SUPERIOR DEL DISTRITO DE COLUMBIA, 500 INDIANA AVENUE, N.W., SALA JM 170

YOU MAY OBTAIN A COPY OF THIS FORM IN SPANISH AT THE SUPERIOR COURT OF D.C., 500 INDIANA AVENUE, N.W., ROOM JM 170

NOTE: SEE IMPORTANT INFORMATION ON BACK OF THIS FORM

Superior Court of the District of Columbia

CIVIL DIVISION - CIVIL ACTIONS BRANCH

INFORMATION SHEET

Aeon Financial, LLC

Case Number: _____

vs

Date: September 2, 2009

Adrian M. Fenty, et al

| | |
|--|---|
| Name: (please print) Malik J. Tuma | Relationship to Lawsuit <input checked="" type="checkbox"/> Attorney for Plaintiff |
| Firm Name: Schwartz & Associates, LLP | <input type="checkbox"/> Self (Pro Se) Other: _____ |
| Telephone No.: 800-689-5203 | Six digit Unified Bar No.: 420616 |

TYPE OF CASE: Non-Jury 6 Person Jury 12 Person Jury
Demand:\$ _____ Other: _____

PENDING CASE(S) RELATED TO THE ACTION BEING FILED

Case No.: _____ Judge: _____ Calendar #: _____

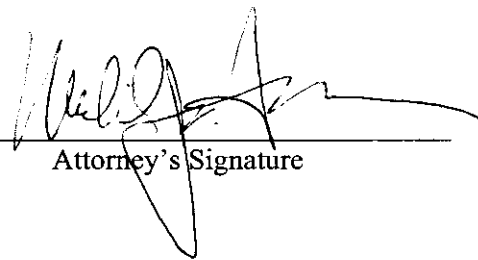
Case No.: _____ Judge: _____ Calendar #: _____

| | | |
|--|--|---|
| NATURE OF SUIT: (Check One Box Only) | | |
| A. CONTRACTS | | |
| <input type="checkbox"/> 01 Breach of Contract | <input type="checkbox"/> 07 Personal Property | <input type="checkbox"/> 14 Under \$25,000 Pltf. Grants Consent |
| <input type="checkbox"/> 02 Breach of Warranty | <input type="checkbox"/> 09 Real Property-Real Estate | <input type="checkbox"/> 16 Under \$25,000 Consent Denied |
| <input type="checkbox"/> 06 Negotiable Instrument | <input type="checkbox"/> 12 Specific Performance | <input type="checkbox"/> 17 OVER \$25,000 |
| <input type="checkbox"/> 15 _____ | | |
| B. PROPERTY TORTS | | |
| <input type="checkbox"/> 01 Automobile | <input type="checkbox"/> 03 Destruction of Private Property | <input type="checkbox"/> 05 Trespass |
| <input type="checkbox"/> 02 Conversion | <input type="checkbox"/> 04 Property Damage | <input type="checkbox"/> 06 Traffic Adjudication |
| <input type="checkbox"/> 07 Shoplifting, D.C. Code § 27-102(a) | | |
| C. PERSONAL TORTS | | |
| <input type="checkbox"/> 01 Abuse of Process | <input type="checkbox"/> 09 Harassment | <input type="checkbox"/> 17 Personal Injury – (Not Automobile, Not Malpractice) |
| <input type="checkbox"/> 02 Alienation of Affection | <input type="checkbox"/> 10 Invasion of Privacy | <input type="checkbox"/> 18 Wrongful Death (Not malpractice) |
| <input type="checkbox"/> 03 Assault and Battery | <input type="checkbox"/> 11 Libel and Slander | <input type="checkbox"/> 19 Wrongful Eviction |
| <input type="checkbox"/> 04 Automobile-Personal Injury | <input type="checkbox"/> 12 Malicious Interference | <input type="checkbox"/> 20 Friendly Suit |
| <input type="checkbox"/> 05 Deceit (Misrepresentation) | <input type="checkbox"/> 13 Malicious Prosecution | <input type="checkbox"/> 21 Asbestos |
| <input type="checkbox"/> 06 False Accusation | <input type="checkbox"/> 14 Malpractice Legal | <input type="checkbox"/> 22 Toxic/Mass Torts |
| <input type="checkbox"/> 07 False Arrest | <input type="checkbox"/> 15 Malpractice Medical (including wrongful death) | <input type="checkbox"/> 23 Tobacco |
| <input type="checkbox"/> 08 Fraud | <input type="checkbox"/> 16 Negligence-(Not Automobile, Not Malpractice) | <input type="checkbox"/> 24 Lead Paint |

SEE REVERSE SIDE AND CHECK HERE IF USED

INFORMATION SHEET, Continued

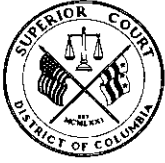
| | | |
|--|---|--|
| <p>C. OTHERS</p> <p>I.</p> <p><input type="checkbox"/> 01 Accounting</p> <p><input type="checkbox"/> 02 Att. Before Judgment</p> <p><input type="checkbox"/> 04 Condemnation (Emin. Domain)</p> <p><input type="checkbox"/> 05 Ejectment</p> <p><input type="checkbox"/> 07 Insurance/Subrogation Under \$25,000 Pltf. Grants Consent</p> <p><input type="checkbox"/> 08 Quite Title</p> <p><input type="checkbox"/> 09 Special Writ/Warrants DC Code § 11-941</p> | <p><input checked="" type="checkbox"/> 10 T.R.O./Injunction</p> <p><input type="checkbox"/> 11 Writ of Replevin</p> <p><input type="checkbox"/> 12 Enforce Mechanics Lien</p> <p><input checked="" type="checkbox"/> 16 Declaratory Judgment</p> <p><input type="checkbox"/> 17 Merit Personnel Act (OEA) (D.C. Code Title 1, Chapter 6)</p> <p><input type="checkbox"/> 18 Product Liability</p> <p><input type="checkbox"/> 24 Application to Confirm, Modify, Vacate Arbitration Award (D.C. Code § 16-4315)</p> | <p><input type="checkbox"/> 25 Liens: Tax/Water Consent Granted</p> <p><input type="checkbox"/> 26 Insurance/Subrogation Under \$25,000 Consent Denied</p> <p><input type="checkbox"/> 27 Insurance/Subrogation Over \$25,000</p> <p><input type="checkbox"/> 28 Motion to Confirm Arbitration Award (Collection Cases Only)</p> <p><input type="checkbox"/> 26 Merit Personnel Act (OHR)</p> <p><input type="checkbox"/> 30 Liens: Tax/Water Consent Denied</p> |
| <p>II.</p> <p><input type="checkbox"/> 03 Change of Name</p> <p><input type="checkbox"/> 06 Foreign Judgment</p> <p><input type="checkbox"/> 13 Correction of Birth Certificate</p> <p><input type="checkbox"/> 14 Correction of Marriage Certificate</p> | <p><input type="checkbox"/> 15 Libel of Information</p> <p><input type="checkbox"/> 19 Enter Administrative Order as Judgment [D.C. Code § 2-1802.03(h) or 32-1519(a)]</p> <p><input type="checkbox"/> 20 Master Meter (D.C. Code § 42-3301, et seq.)</p> | <p><input type="checkbox"/> 21 Petition for Subpoena [Rule 28-I (b)]</p> <p><input type="checkbox"/> 22 Release Mechanics Lien</p> <p><input type="checkbox"/> 23 Rule 27 (a)(1) (Perpetuate Testimony)</p> |



 Attorney's Signature

September 2, 2009

Date



**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

AEON FINANCIAL, LLC

Vs.

C.A. No. 2009 CA 006326 B

Mayor ADRIAN FENTY et al

INITIAL ORDER AND ADDENDUM

Pursuant to D.C. Code § 11-906 and District of Columbia Superior Court Rule of Civil Procedure (“SCR Civ”) 40-I, it is hereby **ORDERED** as follows:

(1) Effective this date, this case has assigned to the individual calendar designated below. All future filings in this case shall bear the calendar number and the judge’s name beneath the case number in the caption. On filing any motion or paper related thereto, one copy (for the judge) must be delivered to the Clerk along with the original.

(2) Within 60 days of the filing of the complaint, plaintiff must file proof of serving on each defendant: copies of the Summons, the Complaint, and this Initial Order. As to any defendant for whom such proof of service has not been filed, the Complaint will be dismissed without prejudice for want of prosecution unless the time for serving the defendant has been extended as provided in SCR Civ 4(m).

(3) Within 20 days of service as described above, except as otherwise noted in SCR Civ 12, each defendant must respond to the Complaint by filing an Answer or other responsive pleading. As to the defendant who has failed to respond, a default and judgment will be entered unless the time to respond has been extended as provided in SCR Civ 55(a).

(4) At the time and place noted below, all counsel and unrepresented parties shall appear before the assigned judge at an Initial Scheduling and Settlement Conference to discuss the possibilities of settlement and to establish a schedule for the completion of all proceedings, including, normally, either mediation, case evaluation, or arbitration. Counsel shall discuss with their clients **prior** to the conference whether the clients are agreeable to binding or non-binding arbitration. **This order is the only notice that parties and counsel will receive concerning this Conference.**

(5) Upon advice that the date noted below is inconvenient for any party or counsel, the Quality Review Branch (202) 879-1750 may continue the Conference **once**, with the consent of all parties, to either of the two succeeding Fridays. Request must be made not less than six business days before the scheduling conference date. No other continuance of the conference will be granted except upon motion for good cause shown.

(6) Parties are responsible for obtaining and complying with all requirements of the General Order for Civil cases, each Judge’s Supplement to the General Order and the General Mediation Order. Copies of these orders are available in the Courtroom and on the Court’s website <http://www.dccourts.gov/>.

Chief Judge Lee F. Satterfield

Case Assigned to: Judge BROOK HEDGE

Date: September 2, 2009

Initial Conference: 9:00 am, Friday, December 11, 2009

Location: Courtroom 517

500 Indiana Avenue N.W.
WASHINGTON, DC 20001

ADDENDUM TO INITIAL ORDER AFFECTING ALL MEDICAL MALPRACTICE CASES

In accordance with the Medical Malpractice Proceedings Act of 2006, D.C. Code § 16-2801, et seq. (2007 Winter Supp.), "[a]fter an action is filed in the court against a healthcare provider alleging medical malpractice, the court shall require the parties to enter into mediation, without discovery or, if all parties agree[,] with only limited discovery that will not interfere with the completion of mediation within 30 days of the Initial Scheduling and Settlement Conference ("ISSC"), prior to any further litigation in an effort to reach a settlement agreement. The early mediation schedule shall be included in the Scheduling Order following the ISSC. Unless all parties agree, the stay of discovery shall not be more than 30 days after the ISSC." D.C. Code § 16-2821.

To ensure compliance with this legislation, on or before the date of the ISSC, the Court will notify all attorneys and *pro se* parties of the date and time of the early mediation session and the name of the assigned mediator. Information about the early mediation date also is available over the internet at <https://www.dccourts.gov/pa/>. To facilitate this process, all counsel and *pro se* parties in every medical malpractice case are required to confer, jointly complete and sign an EARLY MEDIATION FORM, which must be filed no later than ten (10) calendar days prior to the ISSC. Two separate Early Mediation Forms are available. Both forms may be obtained at www.dccourts.gov/medmalmediation. One form is to be used for early mediation with a mediator from the multi-door medical malpractice mediator roster; the second form is to be used for early mediation with a private mediator. Both forms also are available in the Multi-Door Dispute Resolution Office, Suite 105, 515 5th Street, N.W. (enter at Police Memorial Plaza entrance). Plaintiff's counsel is responsible for eFiling the form and is required to e-mail a courtesy copy to earlymedmal@dcsc.gov. *Pro se* Plaintiffs who elect not to eFile may file by hand in the Multi-Door Dispute Resolution Office.

A roster of medical malpractice mediators available through the Court's Multi-Door Dispute Resolution Division, with biographical information about each mediator, can be found at www.dccourts.gov/medmalmediation/mediatorprofiles. All individuals on the roster are judges or lawyers with at least 10 years of significant experience in medical malpractice litigation. D.C. Code § 16-2823(a). If the parties cannot agree on a mediator, the Court will appoint one. D.C. Code § 16-2823(b).

The following persons are required by statute to attend personally the Early Mediation Conference: (1) all parties; (2) for parties that are not individuals, a representative with settlement authority; (3) in cases involving an insurance company, a representative of the company with settlement authority; and (4) attorneys representing each party with primary responsibility for the case. D.C. Code § 16-2824.

No later than ten (10) days after the early mediation session has terminated, Plaintiff must eFile with the Court a report prepared by the mediator, including a private mediator, regarding: (1) attendance; (2) whether a settlement was reached; or, (3) if a settlement was not reached, any agreements to narrow the scope of the dispute, limit discovery, facilitate future settlement, hold another mediation session, or otherwise reduce the cost and time of trial preparation. D.C. Code § 16-2826. Any Plaintiff who is *pro se* may elect to file the report by hand with the Civil Clerk's Office. The forms to be used for early mediation reports are available at www.dccourts.gov/medmalmediation.

Chief Judge Lee F. Satterfield