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Attorneys for Defendants, Direct Capital Corporation, Christian Caruso, George Wade and Darren Anthony

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

CIVIL ACTION NO.

ELECTRONICALLY FILED

MARLIN LEASING CORPORATION,

Plaintiff,

v.

DIRECT CAPITAL CORP., CHRISTIAN
CARUSO, GEORGE WADE, and DARREN
ANTHONY,

Defendants.

NOTICE OF REMOVAL

Defendants, Direct Capital Corporation, Christian Caruso, George Wade and Darren Anthony (collectively hereinafter referred to as "Defendants"), by this Notice of Removal, respectfully show:

28 U.S.C. §1446

1. Plaintiff, Marlin Leasing Corporation, has filed a civil action against defendants in the Superior Court of New Jersey, Law Division, Burlington County ("the State Court action"), by means of a Complaint. The State Court action has been assigned Docket Number BUR-C-000052-08.

2. This Notice of Removal is being filed with the United States District Court for the District of New Jersey because it is the court for the district and division in which the State Court action is pending. 28 U.S.C. §1446(a); 28 U.S.C. §1441(a).

3. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure. 28 U.S.C. §1446(a).

4. Annexed hereto, as **Exhibit A**, is a copy of the Complaint in the State Court action and Certification of Diligent Inquiry which were served on the defendants.

5. The Complaint in the State Court action was filed on April 16, 2008 and was served on the defendants on May 1, 2008. This Notice of Removal is being filed with this Clerk of the United States District Court for the District of New Jersey, in a timely fashion, within thirty (30) days after the service of

the Complaint on the defendants. 28 U.S.C. §1446(b);
Fed.R.Civ.P. 6(a).

6. Annexed hereto, as **Exhibit B**, is the Notice of Removal of Action to the United States District Court for the District of New Jersey which will be filed with the Deputy Clerk of the Superior Court of New Jersey, in Burlington County, in the State Court action, immediately following the filing of this Notice of Removal with the Clerk of the United States District Court for the District of New Jersey. 28 U.S.C. §1446(d).

7. Annexed hereto, as **Exhibit C**, is the Notice of Removal of Action to the United States District Court for the District of New Jersey which will be served on counsel for the plaintiff immediately following the filing of this Notice of Removal with the Clerk of the United States District Court for the District of New Jersey. 28 U.S.C. §1446(d).

28 U.S.C. §1441

8. The Complaint filed in the State Court action alleges that the defendants misappropriated the proprietary business model, documents, and business knowledge plaintiff spent years developing and perfecting. A copy of this Complaint is annexed as **Exhibit A**.

9. As is shown more fully below, this Court has original jurisdiction pursuant to 28 U.S.C. §1332(a), as the amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.00, and there is complete diversity of citizenship between the parties. Thus, this action may be removed to this Court pursuant to U.S.C. §1441.

10. As referenced in the attached Complaint, plaintiff Marlin Leasing Corporation was formed under the laws of Delaware, with its principal place of business located in New Jersey.

11. Defendant Direct Capital Corporation was formed under the laws of New Hampshire, with its principal place of business located in New Hampshire.

12. Defendant Christian Caruso is a citizen and domiciliary of the State of Illinois.

13. Defendant George Wade is a citizen and domiciliary of the State of Illinois.

14. Defendant Darren Anthony is a citizen and domiciliary of the State of Georgia. Upon information and belief, the citizenship of the parties as alleged above existed at the time

the underlying action was commenced and remains unchanged at the time of removal.

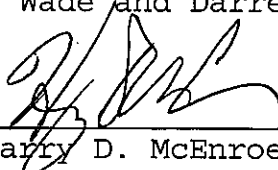
15. A good faith reading of the complaint renders it facially apparent that the amount in controversy exceeds \$75,000, exclusive of interest and costs. This is an action in which Plaintiff seeks injunctive relief and monetary damages based upon allegations of contractual breach, tortious interference with business relationships, unfair competition, civil conspiracy and other claims arising out of the equipment leasing industry.

16. The State Court action is a civil suit of which District Court of the United States have original jurisdiction; this Notice of Removal has been timely filed; and this Notice of Removal has been filed in the appropriate district.

WHEREFORE, PLEASE TAKE NOTICE that this cause should proceed in the United States District Court for the District of New Jersey as an action properly removed thereto.

TOMPKINS MCGUIRE WACHENFELD & BARRY LLP
Attorneys for Defendants, Direct
Capital Corporation, Christian Caruso,
George Wade and Darren Anthony

By: _____


Harry D. McEnroe

Date: May 28, 2008
608216.2

EXHIBIT A

DEPUTY CLERK
SUPERIOR COURT
BURLINGTON COUNTY

2008 APR 16 P 3:07

FILED & RECEIVED

FLASTER/GREENBERG P.C.

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MARLIN LEASING CORPORATION,

Plaintiff,

v.

DIRECT CAPITAL CORP., CHRISTIAN
CARUSO, GEORGE WADE, and DARREN
ANTHONY,

Defendants.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
BURLINGTON COUNTY

DOCKET NO. BUR-C-0000 52-08

Civil Action

COMPLAINT, DESIGNATION OF
TRIAL COUNSEL, AND R. 4:5-1
CERTIFICATION

Plaintiff Marlin Leasing Corporation ("Marlin"), by way of Complaint against Defendants Direct Capital Corporation ("Direct Capital"), Christian Caruso, George Wade, and Darren Anthony (collectively, "Defendants"), states as follow:

OVERVIEW

1. Marlin seeks injunctive relief and an award of monetary damages against Defendants who, though their concerted efforts, misappropriated the proprietary business model, documents, and business knowledge Marlin spent years developing and perfecting. By unlawfully accessing and using systems, processes, and information developed by Marlin to further the business of Direct Capital, Defendants engaged in unfair competition which allowed Direct Capital to avoid the expense and time required to invest in and develop its own business practices independently. In addition to engaging in conduct constituting unfair competition and related business torts. Defendants Caruso, Wade and Anthony also engaged in misuse of

common law duties they owed to Marlin.

PARTIES

2. Marlin is a corporation, formed under the laws of the State of Delaware, with its principal place of business located at 300 Fellowship Road, Mount Laurel, New Jersey 08054, in the County of Burlington.

3. Direct Capital is, upon information and belief, a corporation company formed under the laws of the State of New Hampshire with its principal place of business located at 155 Commerce Way, Portsmouth, New Hampshire 03801.

4. Christian Caruso is, upon information and belief, an employee of Direct Capital residing at 2009 W. Walton Street, Chicago, Illinois 60622.

5. George Wade is, upon information and belief, an employee of Direct Capital residing at 3900 North Pine Grove Street, # 508, Chicago, Illinois 60613.

6. Darren Anthony is, upon information and belief, an employee of Direct Capital residing at 6270 Deerwoods Trail, Alpharetta, Georgia 30005.

FACTS COMMON TO ALL COUNTS

7. Marlin is a publicly traded, nationwide provider of equipment financing and working capital solutions primarily to small businesses.

8. Among other things, Marlin specializes in the segment of the equipment leasing finance market commonly known as "small-ticket," commonly defined as transactions under \$250,000.

9. Marlin's primary lease origination channels are (i) independent equipment dealers whose customers require lease financing; (ii) national equipment manufacturers and distributors and their branded equipment dealers whose customers require lease financing; and (iii) lease brokers and certain equipment dealers who refer transactions to Marlin for a fee or sell existing leases to Marlin that said brokers and equipment dealers had originated.

Marlin's Confidentiality Agreements with Caruso and Anthony

10. On or about January 8, 2004, Marlin hired Christian Caruso.

11. On or about October 27, 2003, Marlin hired Darren Anthony.

12. At the time they were hired, Defendants Caruso and Anthony each entered into a separate Confidentiality Agreement (the "Confidentiality Agreements") with Marlin.

13. Among other things, each of the respective Confidentiality Agreements provides that the employee "shall hold in strict confidence and shall not disclose, publish, discuss or otherwise disseminate the Confidential Information [of Marlin] to any third party"

14. Further, the Confidentiality Agreements provide that the employee may only use any Confidential Information provided to him by Marlin for activities relating to his employment by Marlin and shall not use it for any other purpose.

Marlin's Employee Promises agreements with Caruso and Anthony

15. In addition to their separate Confidentiality Agreements, Defendants Caruso and Anthony also entered into Employee Promises agreements with Marlin.

16. In their respective Employee Promises agreements, Defendants Caruso and Anthony specifically acknowledged that Marlin would provide them with valuable leads and

lessees, vendors, manufacturers, brokers and others ("Customers").

17. Defendants Caruso and Anthony also specifically acknowledged that they would learn a variety of valuable confidential information belonging to Marlin including customer lists, sales methods and other information.

18. Among other things, in their respective Employee Promises agreements, Defendants Caruso and Anthony agreed that if their employment with Marlin terminated for any reason (with the exception of certain Customers to the extent they were specifically delineated in the agreement as pre-existing customers):

[F]or a period of one (1) year following the end of employment, the Employee will not directly or indirectly by subterfuge or otherwise, do business with, or solicit the business of, or refer to a third party the business of, any Customer of Marlin with whom the Employee did business or whose account was at any time serviced on a regular basis, either by the Employee alone or the Employee with other employees, while employed at Marlin, even if the Employee was the person who initiated or developed the relationship with that Customer. An example of doing business "indirectly as a subterfuge" includes, but is not limited to, giving documentary or verbal information or other advice or support to other persons where the Employee would otherwise be prohibited from doing so on his . . . own.

19. Moreover, in the Employee Promises agreement, Defendants Caruso and Anthony further agreed that they:

[W]ill not disclose, directly or indirectly, to any person or company at any time (whether during or following his . . . employment with Marlin) any [valuable, confidential, secret or proprietary information ("Information")] or use any such Information other than in the course of his . . . Employment with Marlin. All information developed or prepared by the Employee, including but not limited to customer lists, is covered by this promise since the Employee was being paid by Marlin during the time it was developed. The Employee agrees that all such

Information is the exclusive property of Marlin and will remain Marlin's property following the Employee's employment with Marlin.

Obligations of Caruso, Wade and Anthony under Marlin's Code of Ethics

20. On or about February 14, 2003, Marlin hired George Wade.

21. As a condition of, and as consideration for, employment with Marlin, Defendants Caruso, Wade and Anthony each agreed, as acknowledged in a written Disclosure Statement, to be bound by and to comply with Marlin's Code of Ethics and Business Conduct.

22. Marlin's Code of Ethics and Business Conduct requires that Defendants Caruso, Wade and Anthony "engage in honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships."

23. Under the Code of Ethics and Business Conduct, "[a] 'conflict of interest' exists when [among other things] a person's private interests interfere or conflict (or appear to conflict) in any way with the interests of [Marlin]."

24. In addition, Marlin's Code of Ethics and Business Conduct requires that Marlin employees, including Defendants Caruso, Wade and Anthony, "observe the confidentiality of information they acquire by virtue of their employment or affiliation with [Marlin], including information concerning [Marlin's] customers, vendors, brokers, suppliers and employees."

25. The obligations of Defendants Caruso, Wade and Anthony under the Code of Ethics and Business Conduct require that each of them "safeguard proprietary information, which consists of information that is not generally known to the public and has commercial value in [Marlin's] business. Proprietary information includes, among other things, software programs, source codes, trade secrets, ideas, techniques, and information relating to marketing,

personnel.”

26. Under the Code of Ethics and Business Conduct, “[t]he obligation to safeguard confidential and proprietary information continues even after a person’s employment or affiliation with [Marlin] ends.”

27. Marlin’s Code of Ethics and Business Conduct also applies to an employee’s use of company assets and requires that Marlin’s “facilities, materials, supplies, time, information, intellectual property, software and other assets” only be used for legitimate business purposes.

28. Furthermore, Defendants Caruso, Wade and Anthony each agreed to conduct himself with “honesty and integrity in all areas not specifically addressed in [the Code of Ethics and Business Conduct].”

Employment of Caruso, Wade and Anthony by Marlin

29. During their employment with Marlin, Defendants Caruso, Wade and Anthony were employed in sales positions as account executives.

30. During their employment with Marlin, confidential information and trade secrets were disclosed to Defendants Caruso, Wade and Anthony, including, without limitation, information relating to Marlin’s operations, business forms, marketing methods, costs, prices, contractual relationships, customer lists, suppliers, referrals, prospective customers, business development methods, and relationships with lessees, equipment vendors, equipment manufacturers, lease brokers and other customers.

31. At the close of their respective employment relationships with Marlin, Defendants Caruso, Wade and Anthony were formally advised, in person, by members of Marlin’s senior

vis their applicable Confidentiality Agreements, Employee Promises agreements, and Code of Ethics and Business Conduct obligations; subsequently, Marlin sent written notification to Defendants Caruso and Anthony reiterating their ongoing obligations to Marlin.

Direct Capital seeks to expand into a new market by using Marlin's confidential information to establish itself in the new market and to solicit Marlin's customers

32. Upon information and belief, Direct Capital specializes in providing financing for small-ticket office equipment directly to small businesses. Direct Capital's market experience and knowledge is traditionally in marketing its financing services directly to small businesses.

33. Unlike Marlin, Direct Capital did not have expertise, experience or substantial market penetration in the third-party indirect lease origination channels in which equipment manufacturers and distributors, and/or branded equipment dealers, require lease financing for customers.

34. Upon information and belief, Direct Capital wanted to expand its third-party indirect business to target equipment manufacturers, distributors and branded dealers, but it lacked the requisite knowledge or expertise to venture into that marketplace.

35. Marlin, through years of investment and experience marketing its financing services to equipment manufacturers, distributors and branded dealers, developed in-depth, confidential, and proprietary information that allows it to succeed in that marketplace, including, without limitation, specialized documentation, a business model targeted at the manufacturer, distributor and branded dealer lease origination channel, and business relationships with key decision makers.

manufacturer, distributor and branded dealer lease origination channel, Direct Capital sought to appropriate Marlin's resources by, among other things, recruiting Marlin employees with knowledge of Marlin's confidential, proprietary information and inducing these individuals to provide Direct Capital with Marlin's information.

37. Specifically, on or about October 29, 2007, Defendant Caruso, after being recruited by Direct Capital, resigned from Marlin and went to work for Direct Capital to help it expand its business by marketing its financing services to equipment manufacturers, distributors and branded dealers.

38. Defendant Caruso used confidential knowledge of Marlin's business practices that he gained during his employment with Marlin to help Direct Capital expand into the equipment manufacturer, distributor and branded dealer lease origination channel.

39. Among other things, after Defendant Caruso went to work for Direct Capital he began soliciting Marlin sales executives with knowledge of the equipment manufacturer, distributor and branded dealer lease origination channel and asking that they provide Marlin's proprietary documents to him.

40. In particular, Defendant Caruso recruited Defendant Wade to work for Direct Capital and, through e-mail correspondence, asked Defendant Wade to provide him with Marlin's confidential documents, including, without limitation, a rate sheet showing Marlin's pricing and specific transaction documents developed by Marlin. By way of example only, attached, as Exhibit A, are copies of e-mails on or about January 31, 2008 between Defendants Caruso and Wade in which Wade improperly acceded to Caruso's request for a confidential Marlin business form.

41. While employed at Marlin, Defendant Wade obliged Defendant Caruso's requests, in violation of his duty of loyalty, as well as his obligations under the Code of Ethics and Business Conduct, and used Marlin's computer system to supply Defendant Caruso with electronic copies of Marlin's proprietary documents.

42. The Marlin forms and information provided by Defendant Wade to Defendant Caruso are used by Marlin in the course of its business, but are not provided by Marlin for use by Marlin's competitors.

43. When Marlin discovered that Defendants Caruso, Wade and Direct Capital were conspiring to misappropriate its confidential information, Marlin promptly terminated Defendant Wade's employment, at which time Defendant Wade acknowledged engaging in the above-described misappropriations.

44. In addition, Direct Capital also recruited and hired Defendant Anthony to gain access to his knowledge of Marlin's confidential business information.

45. On or about February 27, 2008, Defendant Anthony, after being recruited by Direct Capital, and specifically by Defendant Caruso, resigned from Marlin and went to work for Direct Capital to help it expand its business by marketing its financing services to equipment manufacturers, distributors and branded dealers.

46. Defendants Anthony and Wade used their knowledge of Marlin's confidential information to recruit Marlin employees for Direct Capital.

47. As a direct result of Defendants Caruso's, Wade's and Anthony's use of Marlin's confidential information, Direct Capital recruited and hired several Marlin employees with

channel, including without limitation, senior sales personnel and a credit analyst.

48. Upon information and belief, Defendant Anthony is continuing to use Marlin's confidential information to target Marlin employees on behalf of Direct Capital.

49. Together, Defendants Caruso, Wade, Anthony and Direct Capital are using Marlin's confidential information, which Defendants Caruso, Wade, Anthony were privy to as Marlin employees, to expand Direct Capital's business, by, among other things, targeting and soliciting Marlin's equipment manufacturer, distributor and branded dealer customers, recruiting Marlin employees with confidential knowledge of Marlin's business practices with these customers, and using Marlin's business forms and business model, thereby maliciously interfering with Marlin's existing customer relationships and contractual relationships, and otherwise maliciously competing unfairly with Marlin.

50. Upon information and belief, Defendant Direct Capital directed Defendants Caruso, Wade and Anthony to engage in the aforesaid improper conduct, and was aware of and failed to prevent such improper conduct.

51. As a result of Defendants' conduct, Marlin has suffered, and continues to suffer damages.

FIRST COUNT — BREACH OF CONTRACT
(against Caruso, Wade and Anthony)

52. Marlin hereby incorporates by reference paragraphs 1 through 51 of its Complaint as if same were set forth at length herein.

53. The Confidentiality Agreements Marlin entered into with Defendants Caruso and Anthony are binding and have not been breached in any way by Marlin.

and Anthony are binding and have not been breached in any way by Marlin.

55. The Disclosure Statement signed by Defendants Caruso, Wade and Anthony, in which each of these employees acknowledged his duty to comply with the Code of Ethics and Business Conduct, is a binding agreement and has not been breached in any way by Marlin.

56. By engaging in the above-described conduct, Defendants Caruso, Wade and Anthony breached their respective agreements with Marlin.

57. As a result of Defendants' breaches, Marlin has suffered, and will continue to suffer, substantial monetary damages.

WHEREFORE, Marlin demands judgment in its favor and requests an award of compensatory damages, including disgorgement of profits and recompense for harm done to Marlin; consequential damages; permanent injunctive relief prohibiting Defendants (i) from using or disclosing Marlin's confidential information, proprietary information, and trade secrets in business, (ii) from directly or indirectly transacting business with, soliciting the business of, or referring to a third party the business of, any customer of Marlin with whom Defendants Caruso, Wade and Anthony did business or whose account was at any time serviced either by Defendants Caruso, Wade and Anthony while employed at Marlin, (iii) from recruiting Marlin employees with confidential knowledge of Marlin's business practices within the equipment manufacturer, distributor and branded dealer lease origination channel, (iv) from using any documents developed by Marlin to conduct business with manufacturers, distributors and branded dealers of equipment; attorneys' fees and costs; and such other relief as the court deems just and equitable.

58. Marlin incorporates by reference paragraphs 1 through 57 of its Complaint as if same were set forth at length herein.

59. The Confidentiality Agreements and the Employee Promises agreements Marlin entered into with Defendants Caruso and Anthony, by operation of law, impose a duty of good faith and fair dealing upon Defendants Caruso and Anthony.

60. The Disclosure Statement, in which Defendants Caruso, Wade and Anthony agreed to comply with the Code of Ethics and Business Conduct, by operation of law, imposes a duty of good faith and fair dealing upon Defendants Caruso, Wade and Anthony.

61. By engaging in the above-described conduct, Defendants Caruso, Wade and Anthony acted with the objective of preventing Marlin from receiving its reasonably expected fruits under its contractual relationships with these Defendants and, accordingly, breached their respective duties of good faith and fair dealing.

62. As a result, Marlin has suffered, and continues to suffer, damages.

WHEREFORE, Marlin demands judgment in its favor and requests an award of compensatory damages, including disgorgement of profits and recompense for harm done to Marlin; consequential damages; permanent injunctive relief prohibiting Defendants (i) from using or disclosing Marlin's confidential information, proprietary information, and trade secrets in business, (ii) from directly or indirectly transacting business with, soliciting the business of, or referring to a third party the business of, any customer of Marlin with whom Defendants Caruso, Wade and Anthony did business or whose account was at any time serviced either by Defendants Caruso, Wade and Anthony while employed at Marlin, (iii) from recruiting Marlin employees

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with confidential knowledge of Marlin's business practices within the equipment manufacturer,
distributor and branded dealer lease origination channel, (iv) from using any documents
developed by Marlin to conduct business with manufacturers, distributors and branded dealers of
equipment; attorneys' fees and costs; and such other relief as the court deems just and equitable.

THIRD COUNT — TORTIOUS INTERFERENCE WITH
MARLIN'S CUSTOMER RELATIONSHIPS
(against all Defendants)

63. Marlin hereby incorporates by reference paragraphs 1 through 62 of its Complaint as if same were set forth at length herein.

64. By engaging in the above-described conduct, including, without limitation, by misappropriating the fruits of Marlin's investment in developing documents, strategies and/or business plans for marketing to and servicing manufacturers, distributors and branded dealers of equipment as a channel for lease origination, using Marlin's confidential information to solicit Marlin's customers, by misappropriating Marlin's confidential information, and by working in concert to solicit Marlin's customers in violation of restrictions on competition and/or solicitation binding Defendants Caruso, Wade and Anthony, Defendants have interfered with Marlin's prospective and existing business relations without justification.

65. Defendants engaged in the above-described conduct intentionally, maliciously, and without justification.

66. As a result, Marlin has suffered, and continues to suffer, damages.

WHEREFORE, Marlin demands judgment in its favor and requests an award of compensatory damages; including disgorgement of profits and recompense for harm done to Marlin; consequential damages; punitive damages; permanent injunctive relief prohibiting Defendants (i) from using or disclosing Marlin's confidential information, proprietary

with, soliciting the business of, or referring to a third party the business of, any customer of Marlin with whom Defendants Caruso, Wade and Anthony did business or whose account was at any time serviced either by Defendants Caruso, Wade and Anthony while employed at Marlin, (iii) from recruiting Marlin employees with confidential knowledge of Marlin's business practices within the equipment manufacturer, distributor and branded dealer lease origination channel, (iv) from using any documents developed by Marlin to conduct business with manufacturers, distributors and branded dealers of equipment; attorneys' fees and costs; and such other relief as the court deems just and equitable.

**FOURTH COUNT — TORTIOUS INTERFERENCE WITH MARLIN'S
RELATIONSHIPS WITH CERTAIN CO-DEFENDANTS**
(against all Defendants)

67. Marlin hereby incorporates by reference paragraphs 1 through 66 of its Complaint as if same were set forth at length herein.

68. By engaging in the above-described conduct, Direct Capital has interfered with Marlin's existing contractual relationship, and its expected economic advantages arising from its contractual relationship, with co-Defendants Caruso, Wade, Anthony, and other Marlin employees without justification.

69. By engaging in the above-described conduct, Defendant Caruso has interfered with Marlin's existing contractual relationship, and its expected economic advantages arising from its contractual relationship, with co-Defendants Wade, Anthony, and other Marlin employees without justification.

70. By engaging in the above-described conduct, Defendant Wade has interfered with Marlin's existing contractual relationship, and its expected economic advantages arising from its

without justification.

71. By engaging in the above-described conduct, Defendant Anthony has interfered with Marlin's existing contractual relationship, and its expected economic advantages arising from its contractual relationship, with co-Defendants Caruso, Wade, and other Marlin employees without justification.

72. Defendants engaged in the above-described conduct intentionally, maliciously, and without justification.

73. As a result, Marlin has suffered, and continues to suffer, damages.

WHEREFORE, Marlin demands judgment in its favor and requests an award of compensatory damages, including disgorgement of profits and recompense for harm done to Marlin; consequential damages; punitive damages; permanent injunctive relief prohibiting Defendants (i) from using or disclosing Marlin's confidential information, proprietary information, and trade secrets in business, (ii) from directly or indirectly transacting business with, soliciting the business of, or referring to a third party the business of, any customer of Marlin with whom Defendants Caruso, Wade and Anthony did business or whose account was at any time serviced either by Defendants Caruso, Wade and Anthony while employed at Marlin, (iii) from recruiting Marlin employees with confidential knowledge of Marlin's business practices within the equipment manufacturer, distributor and branded dealer lease origination channel, (iv) from using any documents developed by Marlin to conduct business with manufacturers, distributors and branded dealers of equipment; attorneys' fees and costs; and such other relief as the court deems just and equitable.

74. Marlin hereby incorporates by reference paragraphs 1 through 73 of its Complaint as if same were set forth at length herein.

75. By engaging in the above-described conduct including, without limitation, by misappropriating the fruits of Marlin's investment in developing documents, strategies and/or business plans for marketing to and servicing manufacturers, distributors and branded dealers of equipment as a channel for lease origination, by using Marlin's confidential information to solicit Marlin's customers, and by misappropriating Marlin's confidential information, Defendants have engaged in unfair competition with Marlin.

76. Defendants engaged in the above-described conduct intentionally, maliciously, and without justification.

77. As a result, Marlin has suffered, and continues to suffer damages.

WHEREFORE, Marlin demands judgment in its favor and requests an award of compensatory damages, including disgorgement of profits and recompense for harm done to Marlin; consequential damages; punitive damages; permanent injunctive relief prohibiting Defendants (i) from using or disclosing Marlin's confidential information, proprietary information, and trade secrets in business, (ii) from directly or indirectly transacting business with, soliciting the business of, or referring to a third party the business of, any customer of Marlin with whom Defendants Caruso, Wade and Anthony did business or whose account was at any time serviced either by Defendants Caruso, Wade and Anthony while employed at Marlin, (iii) from recruiting Marlin employees with confidential knowledge of Marlin's business practices within the equipment manufacturer, distributor and branded dealer lease origination

manufacturers, distributors and branded dealers of equipment; attorneys' fees and costs; and such other relief as the court deems just and equitable.

SIXTH COUNT — CIVIL CONSPIRACY
(against all Defendants)

78. Marlin hereby incorporates by reference paragraphs 1 through 77 of its Complaint as if same were set forth at length herein.

79. By working in concert to engage in the above-described conduct, including, without limitation, by misappropriating the fruits of Marlin's investment in developing documents, strategies, pricing and/or business plans for marketing to and servicing manufacturers, distributors and branded dealers of equipment as a channel for lease origination, by using Marlin's confidential information to solicit Marlin's customers, and by misappropriating Marlin's confidential information, Defendants have conspired to engage in the wrongful conduct alleged herein.

80. Defendants engaged in the above-described conduct intentionally, maliciously, and without justification.

81. As a result, Marlin has suffered, and continues to suffer, damages.

WHEREFORE, Marlin demands judgment in its favor and requests an award of compensatory damages, including disgorgement of profits and recompense for harm done to Marlin; consequential damages; punitive damages; permanent injunctive relief prohibiting Defendants (i) from using or disclosing Marlin's confidential information, proprietary information, and trade secrets in business, (ii) from directly or indirectly transacting business with, soliciting the business of, or referring to a third party the business of, any customer of

any time serviced either by Defendants Caruso, Wade and Anthony while employed at Marlin, (iii) from recruiting Marlin employees with confidential knowledge of Marlin's business practices within the equipment manufacturer, distributor and branded dealer lease origination channel, (iv) from using any documents developed by Marlin to conduct business with manufacturers, distributors and branded dealers of equipment; attorneys' fees and costs; and such other relief as the court deems just and equitable.

SEVENTH COUNT — MISAPPROPRIATION OF CONFIDENTIAL INFORMATION
(against all Defendants)

82. Marlin hereby incorporates by reference paragraphs 1 through 81 of its Complaint as if same were set forth at length herein.

83. By engaging in the above-described conduct, Defendants misappropriated Marlin's confidential information and documents to benefit Direct Capital.

84. Defendants engaged in the above-described conduct intentionally, maliciously, and without justification.

85. As a result, Marlin has suffered, and continues to suffer, damages.

WHEREFORE, Marlin demands judgment in its favor and requests an award of compensatory damages, including disgorgement of profits and recompense for harm done to Marlin; consequential damages; punitive damages; permanent injunctive relief prohibiting Defendants (i) from using or disclosing Marlin's confidential information, proprietary information, and trade secrets in business, (ii) from directly or indirectly transacting business with, soliciting the business of, or referring to a third party the business of, any customer of Marlin with whom Defendants Caruso, Wade and Anthony did business or whose account was at

(iii) from recruiting Marlin employees with confidential knowledge of Marlin's business practices within the equipment manufacturer, distributor and branded dealer lease origination channel, (iv) from using any documents developed by Marlin to conduct business with manufacturers, distributors and branded dealers of equipment; attorneys' fees and costs; and such other relief as the court deems just and equitable.

EIGHTH COUNT — COMPUTER-RELATED OFFENSES
(against all Defendants)

86. Marlin hereby incorporates by reference paragraphs 1 through 85 of its Complaint as if same were set forth at length herein.

87. By engaging in the above-described conduct, including, without limitation, by using electronic means to misappropriate Marlin's proprietary documents, Defendants committed computer-related offenses in violation of N.J.S.A. § 2A:38A-3, et seq.

88. Defendants engaged in the above-described conduct intentionally, maliciously, and without justification.

89. As a result, Marlin has suffered, and continues to suffer, damages.

WHEREFORE, Marlin demands judgment in its favor and requests an award of compensatory damages, including disgorgement of profits and recompense for harm done to Marlin; consequential damages; punitive damages; permanent injunctive relief prohibiting Defendants (i) from using or disclosing Marlin's confidential information, proprietary information, and trade secrets in business, (ii) from directly or indirectly transacting business with, soliciting the business of, or referring to a third party the business of, any customer of Marlin with whom Defendants Caruso, Wade and Anthony did business or whose account was at

(iii) from recruiting Marlin employees with confidential knowledge of Marlin's business practices within the equipment manufacturer, distributor and branded dealer lease origination channel, (iv) from using any documents developed by Marlin to conduct business with manufacturers, distributors and branded dealers of equipment; attorneys' fees and costs; and such other relief as the court deems just and equitable.

NINTH COUNT — BREACH OF DUTY OF LOYALTY
(against Wade)

90. Marlin hereby incorporates by reference paragraphs 1 through 89 of its Complaint as if same were set forth at length herein.

91. Defendant Wade owed a duty of loyalty to Marlin during his employment, which included, without limitation, a duty to refrain from taking any actions to injure Marlin's business.

92. By engaging in the above-described conduct, including, without limitation, by using electronic means to misappropriate Marlin's proprietary documents, Defendant Wade breached his duty of loyalty to Marlin.

93. Defendant Wade engaged in the above-described conduct intentionally, maliciously, and without justification.

94. As a result, Marlin has suffered, and continues to suffer, damages.

WHEREFORE, Marlin demands judgment in its favor and requests an award of compensatory damages, including disgorgement of profits and recompense for harm done to Marlin; consequential damages; punitive damages; permanent injunctive relief prohibiting Defendants (i) from using or disclosing Marlin's confidential information, proprietary information, and trade secrets in business, (ii) from directly or indirectly transacting business

Marlin with whom Defendants Caruso, Wade and Anthony did business or whose account was at any time serviced either by Defendants Caruso, Wade and Anthony while employed at Marlin, (iii) from recruiting Marlin employees with confidential knowledge of Marlin's business practices within the equipment manufacturer, distributor and branded dealer lease origination channel, (iv) from using any documents developed by Marlin to conduct business with manufacturers, distributors and branded dealers of equipment; attorneys' fees and costs; and such other relief as the court deems just and equitable.

DESIGNATION OF TRIAL COUNSEL

Darren H. Goldstein, Esquire is hereby designated as trial counsel for Marlin.

CERTIFICATION PURSUANT TO RULE 4:5-1

I hereby certify that the matter in controversy herein is not subject to any other pending action in any other court or arbitration forum of which the undersigned is aware, nor is any other action or arbitration process contemplated. There are no other parties that should be joined in this action.

FLASTER/GREENBERG P.C.

Attorneys for Plaintiff Marlin Leasing Corporation

By: 

Darren H. Goldstein, Esquire

Adam E. Gersh, Esquire

Dated: April 16, 2008

EXHIBIT "A"

EMS Email Archive

Page 1 of 5

REDACTED

REDACTED

Results 1 - 3 of 3 (0.1710 seconds)

RE:

From: "Chris Caruso | Direct Capital" <CCaruso@directcapital.com>

Date: Thursday, January 31, 2008 2:22:28 PM

To: George Wade <GWade@marlinleasing.com>

Since it's my office they will take whoever I say.....therefore if you want it....it's yours.

However make sure it's right for you.....ask a lot of questions about their future plans for Chicago, management opportunities, etc.....use this as an opportunity to set yourself up nicely.....

From: George Wade [mailto:GWade@marlinleasing.com]

Sent: Thursday, January 31, 2008 2:15 PM

To: Chris Caruso | Direct Capital

Subject: RE:

Yeah, I'm scheduled to call him tomorrow as well. Seemed to go well though.

George Wade
Regional Manager
Marlin Leasing Corp.
Phone: (866) 462-7546 Ext. 3105
Fax: (866) 627-5462
gwade@marlinleasing.com

www.marlinleasing.com <<http://www.marlinleasing.com/>>
NASDAQ - MRLN

From: Chris Caruso | Direct Capital [mailto:CCaruso@directcapital.com]
Sent: Thursday, January 31, 2008 1:12 PM
To: George Wade
Subject: RE:

Thanks.....

Did you call with Mike go well?

From: George Wade [mailto:GWade@marlinleasing.com]
Sent: Thursday, January 31, 2008 1:07 PM
To: Chris Caruso | Direct Capital
Subject: RE:

Here you go.

George Wade
Regional Manager
Marlin Leasing Corp.
Phone: (866) 462-7546 Ext. 3105
Fax: (866) 627-5462
gwade@marlinleasing.com
www.marlinleasing.com <<http://www.marlinleasing.com/>>
NASDAQ - MRLN

From: Chris Caruso | Direct Capital [mailto:CCaruso@directcapital.com]
Sent: Thursday, January 31, 2008 12:07 PM
To: George Wade
Subject:

Could you forward me a blank Marlin advance payment contract <\$50K?

Chris Caruso
Business Development Executive
V: (603) 373-1395 | F: (603) 373-1447 | M: (773) 412-3127

Direct Capital Corporation
155 Commerce Way | Portsmouth, NH 03801
www.DirectCapital.com <<http://www.directcapital.com/>>

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

Marlin Business Services has been named one of the Forbes Top 200 Small Companies in America for 2006!
<http://www.forbes.com/lists/2006/23/biz_06200best_Marlin-Business-Services_NAZP_print.html>

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Marlin Business Services has been named one of the Forbes Top 200 Small Companies in America for 2006!

<http://www.forbes.com/lists/2006/23/biz_06200best_Marlin-Business-Services_NAZP_print.html>

Notice: This e-mail message is confidential and is intended only for the use of the individual and/or entity identified in the address line of this message. If you have received this message in error, or are not the named recipient(s), please notify us immediately by telephone (856-359-9111)

FLASTER/GREENBERG P.C.

By: Darren H. Goldstein, Esquire
Adam E. Gersh, Esquire

Commerce Center
1810 Chapel Avenue West
Cherry Hill, New Jersey 08002
(856) 661-1900
Attorneys for Plaintiff, Marlin Leasing Corporation

<p>MARLIN LEASING CORPORATION,</p> <p>Plaintiff,</p> <p>v.</p> <p>DIRECT CAPITAL CORP., CHRISTIAN CARUSO, GEORGE WADE and DARREN ANTHONY,</p> <p>Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION BURLINGTON COUNTY</p> <p>DOCKET NO: BUR-C-000052-08</p> <p>JURY TRIAL DEMANDED</p> <p>CERTIFICATION OF DILIGENT INQUIRY PURSUANT TO NEW JERSEY COURT RULES 1:5-4 and 4:4-4(b)(1) REGARDING SERVICE OF SUMMONS AND COMPLAINT UPON DEFENDANTS</p>
--	--

I, Adam E. Gersh, Esquire, being of full age do hereby certify as follows:

1. I am an attorney at law in the State of New Jersey with the law firm of Flaster/Greenberg P.C., counsel for the plaintiff, Marlin Leasing Corporation, in the above captioned matter.

2. I submit this certification pursuant to New Jersey Court Rules 1:5-4 and 4:4-4(b)(1) to attest to the diligent inquiry made to locate and serve the defendants, Direct Capital Corp., Christian Caruso, George Wade and Darren Anthony, in this State with the Summons and Complaint in this matter.

3. The Complaint in this matter was filed on April 16, 2008.

4. Our office conducted a New Jersey corporate search for the defendant, Direct Capital Corp. Our search did reveal a business entity status report for a Direct Capital Corp., however, their status was revoked in New Jersey for not filing an annual report for two consecutive years.

5. In addition, we conducted a nationwide corporate search for Direct Capital Corporation which confirmed their current business address as 155 Commerce Way, Portsmouth, New Hampshire 03801. Direct Capital Corporation does list a registered agent of Steven Cohen, Esquire but he is also located out of the State of New Jersey at 111 Amherst Street, Manchester, New Hampshire 03101.

6. Therefore, on April 28, 2008, the Summons and Complaint in this matter are being simultaneously forwarded to the defendant, Direct Capital Corporation's principal place of business at 155 Commerce Way, Portsmouth, New Hampshire 03801 by certified mail, return receipt requested and also by regular mail. An Affidavit of Service will be filed upon completion of service with the Court.

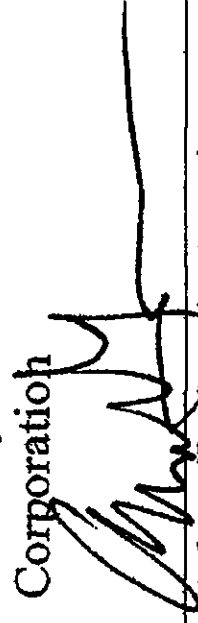
7. Defendants Christian Caruso, George Wade and Darren Anthony, were previously employed by the plaintiff, Marlin Leasing Corporation, as account executives.

8. As a result of this past employer/employee relationship between the plaintiff and these defendants, the plaintiff is knowledgeable of their current home addresses as follows: (a) Christian Caruso, 2009 W. Walton Street, Chicago, Illinois 60622; (b) George Wade, 3900 North Pine Grove Street, #508, Chicago, Illinois 60613; and (c) Darren Anthony, 6270 Deerwoods Trail, Alpharetta, Georgia 30005.

9. Accordingly, on April 28, 2008, the Summons and Complaint in this matter are being simultaneously forwarded to the defendants Christian Caruso, George Wade and Darren Anthony at their residential residences as set forth in paragraph #9, by certified mail, return receipt requested and also by regular mail. An Affidavit of Service will be filed upon completion of service with the Court.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

FLASTER/GREENBERG P.C.
Attorneys for Plaintiff, Marlin Leasing Corporation

By: 
Adam E. Gersh, Esquire

Dated: April 28, 2008

EXHIBIT B

TOMPKINS, McGUIRE, WACHENFELD & BARRY LLP

Four Gateway Center, 5th Floor

100 Mulberry Street

Newark, New Jersey 07102

(973) 622-3000

hmcenroe@tompinksmcguire.com

Attorneys for Defendants, Direct Capital Corporation, Christian Caruso, George Wade and Darren Anthony

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

CIVIL ACTION NO.

MARLIN LEASING CORPORATION,

Plaintiff,

v.

DIRECT CAPITAL CORP., CHRISTIAN
CARUSO, GEORGE WADE and DARREN
ANTHONY,

Defendants.

**NOTICE TO DEPUTY CLERK OF THE SUPERIOR COURT OF NEW JERSEY,
BURLINGTON COUNTY, CONCERNING REMOVAL OF STATE COURT ACTION TO
THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY**

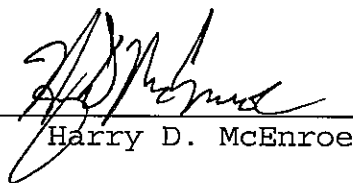
TO: Courts Facility and County Office Building
49 Rancocas Road
Mt. Holly, NJ 08060

PLEASE TAKE NOTICE that attached hereto is a copy of a
Notice of Removal pertaining to Marlin Leasing Corporation v.
Direct Capital, Christian Caruso, George Wade, and Darren

Anthony, Docket Number BUR-L-000052-08, Superior Court of New Jersey, Law Division, Burlington County, which was filed with the Clerk of the United States District Court for the District of New Jersey on the 28th day of May 2008.

TOMPKINS McGUIRE WACHENFELD & BARRY LLP
Attorneys for Defendants, Direct
Capital Corporation, Christian Caruso,
George Wade and Darren Anthony

By:



Harry D. McEnroe

Date: May 28, 2008

EXHIBIT C

TOMPKINS, McGUIRE, WACHENFELD & BARRY LLP

Four Gateway Center, 5th Floor

100 Mulberry Street

Newark, New Jersey 07102

(973) 622-3000

hmcenroe@tompkinsmcguire.com

Attorneys for Defendants, Direct Capital Corporation, Christian Caruso, George Wade and Darren Anthony

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

CIVIL ACTION NO.

MARLIN LEASING CORPORATION,

Plaintiff,

v.

DIRECT CAPITAL CORP., CHRISTIAN
CARUSO, GEORGE WADE, and DARREN
ANTHONY,

Defendants.

**NOTICE TO COUNSEL CONCERNING REMOVAL OF STATE COURT ACTION TO
THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY**

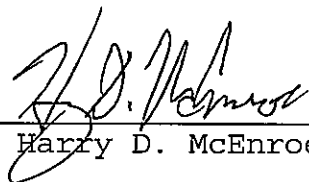
TO: Darren H. Goldstein, Esq.
Flaster Greenberg P.C.
Commerce Center
1810 Chapel Avenue West
Cherry Hill, NJ 08002-4609

PLEASE TAKE NOTICE of the removal of the State Court action captioned Marlin Leasing Corporation v. Direct Capital Corp., Christian Caruso, George Wade and Darren Anthony, Docket Number

BUR-L-000052-08, from the Superior Court of New Jersey, Law Division, Burlington County, to the United States District Court for the District of New Jersey. Attached hereto is a copy of the Notice of Removal which was filed with the Clerk of the United States District Court for the District of New Jersey on the 28th day of May 2008.

TOMPKINS MCGUIRE WACHENFELD & BARRY LLP
Attorneys for Defendants, Direct
Capital Corporation, Christian Caruso,
George Wade and Darren Anthony

By:



Harry D. McEnroe

Date: May 28, 2008

608333

JS 44 (Rev. 12/07, NJ 5/08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p>I. (a) PLAINTIFFS Marlin Leasing Corporation</p> <p>(b) County of Residence of First Listed Plaintiff <u>Burlington</u></p> <p>(c) Attorney's (Firm Name, Address, Telephone Number and Email Address) Flaster Greenberg, PC Commerce Center, 1810 Chapel Avenue West Cherry Hill, NJ 08002-4609 (856) 661-1900</p>	<p>DEFENDANTS Direct Capital Corp., Christian Caruso, George Wade and Darren Anthony</p> <p>County of Residence of First Listed Defendant <u>N/A (New Hampshire)</u></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known) Tompkins, McGuire, Wachenfeld & Barry, LLP, Four Gateway Ctr., 100 Mulberry St., Newark, NJ 07102-4056</p>
---	--

<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

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

<p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input checked="" type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p>PERSONAL INJURY</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p>	<p>PERSONAL INJURY</p> <p><input type="checkbox"/> 362 Personal Injury - Med. Malpractice</p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p>PERSONAL PROPERTY</p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p><input type="checkbox"/> 610 Agriculture</p> <p><input type="checkbox"/> 620 Other Food & Drug</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 630 Liquor Laws</p> <p><input type="checkbox"/> 640 R.R. & Truck</p> <p><input type="checkbox"/> 650 Airline Regs.</p> <p><input type="checkbox"/> 660 Occupational Safety/Health</p> <p><input type="checkbox"/> 690 Other</p> <p>LABOR</p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Mgmt. Relations</p> <p><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act</p> <p>IMMIGRATION</p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 463 Habeas Corpus - Alien Detainee</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p>	<p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>PROPERTY RIGHTS</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p>SOCIAL SECURITY</p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p>FEDERAL TAX SUITS</p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</p>	<p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 810 Selective Service</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 875 Customer Challenge 12 USC 3410</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 892 Economic Stabilization Act</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 894 Energy Allocation Act</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>
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V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from another district (specify)

6 Multidistrict Litigation

7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. 1332

Brief description of cause:
Breach of contract, unfair competition, tortious interference.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ _____


CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) (See instructions):

JUDGE _____ DOCKET NUMBER _____

Explanation:
5/28/08

DATE: 5/28/08

SIGNATURE OF ATTORNEY OF RECORD: 

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.**

Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases. Provide a brief explanation of why the cases are related.

Date and Attorney Signature. Date and sign the civil cover sheet.

TOMPKINS, MCGUIRE, WACHENFELD & BARRY LLP

Four Gateway Center
100 Mulberry Street Suite 5
Newark, New Jersey 07102-4056
(973) 622-3000

Attorneys for Defendants Direct Capital Corporation, Christian Caruso, George Wade and Darren Anthony

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

CIVIL ACTION NO.

MARLIN LEASING CORPORATION,

Plaintiff,

v.

DIRECT CAPITAL CORP., CHRISTIAN
CARUSO, GEORGE WADE, and DARREN
ANTHONY,

Defendants.

CERTIFICATION OF SERVICE

I, Harry D. McEnroe, of full age, do hereby certify as follows this 28th day of May 2008:

1. I am an attorney-at-law admitted to practice before this Court and am a partner in the law firm of Tompkins, McGuire, Wachenfeld & Barry, LLP, counsel for defendants Direct

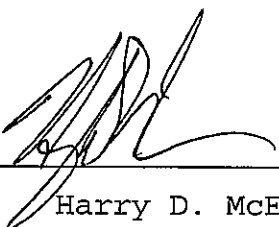
Capital Corporation, Christian Caruso, George Wade and Darren Anthony in the above-captioned matter.

2. Today, May 28, 2008, I caused to be electronically submitted the following documents:

- Notice of Removal
- Notice To Counsel Concerning Removal
- Notice To Deputy Clerk Concerning Removal
- Civil Cover Sheet
- Certification of Counsel

3. Today, May 28, 2008, I also forwarded, via regular mail a copy of the above papers to Darren H. Goldstein, Esq., Flaster Greenberg, P.C., Commerce Center, 1810 Chapel Avenue West, Cherry Hill, NJ 08002-4609.

I certify that the foregoing statements made by me are true. If any of the foregoing statements made by me are willfully false, I am subject to punishment.



Harry D. McEnroe

Dated: May 28, 2009

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