

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

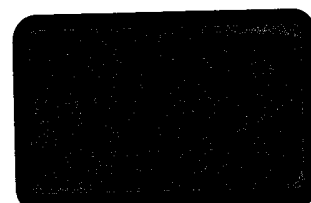
RYAN SHAPIRO and DEBRA PRICE,  
individually, and as representatives of all  
others similarly situated,

Plaintiffs

v.

TRITON FINANCIAL, LLC; TRITON  
ACQUISITION, LP d/b/a TRITON  
INSURANCE, LP; TRITON HOLDINGS,  
LP; TVEST GROUP, LLC, individually and  
in its capacities as General Partner of  
TRITON ACQUISITION, LP d/b/a TRITON  
INSURANCE, LP; KURT BARTON,  
individually and in his capacities as President  
and CEO of TVEST GROUP, LLC and  
Director of TRITON FINANCIAL, LLC,  
and KURT BARTON d/b/a X, unknown  
entities owned or controlled by Kurt Barton;  
TRITON SERVICES, LLC d/b/a TRITON  
REALTY LLC, individually and in its  
capacities as General Partner of TRITON  
ATHLETIC CENTER, LP, and other  
unknown partnerships controlled by Kurt  
Barton or Triton Financial and as managing  
member of TRITON MORTGAGE, LLC;  
TRITON ATHLETIC CENTER, LP;  
TRITON AGGREGATED, LP d/b/a  
TRITON HOLDINGS, LP; TRITON  
MORTGAGE, LLC; TRITON  
ACQUISITION, LP; TRITON BRIDGE  
FUND, LP; TRITON OPPORTUNITY  
FUND III, LLC; CAPVEST, LLC,  
individually and in its capacities as General  
Partner of TRITON BRIDGE FUND, LP;  
TRITON CAPITAL SERVICES, LLC,  
individually and in its capacities as General  
Partner of RUNDBERG LP, RUNDBERG  
BUSINESS PARK, LP; X d/b/a Triton,  
unknown entities owned or controlled by  
Kurt Barton or Triton Financial; TY  
DETMER; KOY DETMER; CHRIS  
WEINKE; JEFF BLAKE; JOHN DiMEGLIO;  
DAVID TUCKFIELD; MICHAEL COUR;  
BRIAN WHITNEY; CALEB

Civil Action No.



CUNNINGHAM; RICHARD FINLAYSON;  
WILLIAM (PAT) TEDROW; MIKE  
BERRY; and FIDELITY BROKERAGE  
SERVICES LLC,

Defendants.

§  
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§  
§

**DEFENDANT KURT BARTON'S NOTIFICATION OF CONSENT TO REMOVAL**

COMES NOW Kurt Barton, Defendant in the above-captioned matter, and consents to removal of this action from the district court of the 98th Judicial District in Travis County, Texas bearing Cause No. D-1-GN-09-004226 in the Court's docket, to the United States District Court, Western District of Texas, Austin Division.<sup>1</sup>

Respectfully submitted,



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Joseph A. Turner  
jturnerpc@aol.com  
State Bar No. 20322500  
JOSEPH A. TURNER, P.C.  
1504 West Avenue  
Austin, Texas 78701-1530  
(512) 474-4892  
(512) 474-8252 (fax)

ATTORNEYS FOR DEFENDANT  
KURT BARTON

<sup>1</sup> By joining in removal of this matter to federal court, Kurt Barton specifically hereby preserves and does not waive any and all applicable defenses, including, without limitation, any defenses contained in Rule 12 of the Federal Rules of Civil Procedure, any and all challenge to contest that service of process was not effected properly, and any and all jurisdictional and other challenges in litigation in this forum.



WEINKE; JEFF BLAKE; JOHN DiMEGLIO; §  
DAVID TUCKFIELD; MICHAEL COUR; §  
BRIAN WHITNEY; CALEB §  
CUNNINGHAM; RICHARD FINLAYSON; §  
WILLIAM (PAT) TEDROW; MIKE §  
BERRY; and FIDELITY BROKERAGE §  
SERVICES LLC, §  
§  
Defendants. §

**DEFENDANT CALEB CUNNINGHAM'S  
NOTIFICATION OF CONSENT TO REMOVAL**

COMES NOW Caleb Cunningham, Defendant in the above-captioned matter, and consents to removal of this action from the district court of the 98th Judicial District in Travis County, Texas bearing Cause No. D-1-GN-09-004226 in the Court's docket, to the United States District Court, Western District of Texas, Austin Division.<sup>1</sup>

Respectfully submitted,

/s/ Thomas A. Nesbitt  
Thomas A. Nesbitt  
[tnesbitt@deshazonesbitt.com](mailto:tnesbitt@deshazonesbitt.com)  
State Bar No. 24007738  
Scott F. DeShazo  
[sdeshazo@deshazonesbitt.com](mailto:sdeshazo@deshazonesbitt.com)  
State Bar No. 24011414  
DeShazo & Nesbitt L.L.P.  
100 Congress Avenue, Suite 800  
Austin, Texas 78701  
(512) 617-5560 phone  
(512) 617-5563 fax

ATTORNEYS FOR DEFENDANT  
CALEB CUNNINGHAM

<sup>1</sup> By joining in removal of this matter to federal court, Caleb Cunningham specifically hereby preserves and does not waive any and all applicable defenses, including, without limitation, any defenses contained in Rule 12 of the Federal Rules of Civil Procedure, any and all challenge to contest that service of process was not effected properly, and any and all jurisdictional and other challenges in litigation in this forum.

**Whittlesey, David**

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**From:** Mike Berry [tcuberry@yahoo.com]  
**Sent:** Monday, January 11, 2010 2:10 PM  
**To:** Whittlesey, David  
**Subject:** Re: consent to removal

Mr. Whittlesey:

I consent to the removal of this matter to Federal Court. Thank you for your assistance in this matter.

Sincerely,

Mike Berry

--- On Mon, 1/11/10, Whittlesey, David <DavidWhittlesey@andrewskurth.com> wrote:

From: Whittlesey, David <DavidWhittlesey@andrewskurth.com>  
Subject: consent to removal  
To: tcuberry@yahoo.com  
Date: Monday, January 11, 2010, 7:28 PM

**Mr. Berry -- we are seeking your consent to remove the Shapiro, et al. v. Triton, et al. matter, pending in the 98th Judicial District in Travis County, Texas bearing Cause No. D-1-GN-09-004226 to the United States District Court, Western District of Texas, Austin Division. Because you have been named as a defendant and because you have been served, we are seeking your consent to this removal. Please reply to this email and indicate whether you consent to the removal. If you have any questions please call.**

**David P. Whittlesey**  
Partner

**Andrews Kurth LLP**  
111 Congress Avenue, Suite 1700  
Austin, Texas 78701  
512.320.9330 Phone  
512.481.4930 Fax  
512.695.2400 Cell  
512.320.9321 Assistant Phone - Amanda Adame  
[dwhittlesey@andrewskurth.com](mailto:dwhittlesey@andrewskurth.com)  
[vCard](#) | [Bio](#) | [andrewskurth.com](http://andrewskurth.com)

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