

IN THE CIRCUIT COURT OF JASPER COUNTY, MISSOURI
AT JOPLIN

CECIL E. HOPKINS,
222 West Briarbrook Lane
Carl Junction, Missouri 64834,

individually, and on behalf of a Class of all
others similarly situated,

Plaintiffs,

vs.

KANSAS TEACHERS COMMUNITY
CREDIT UNION,
a Kansas credit union,
National Credit Union Charter No. 67995

Please serve:
President or Chief Executive
Mark S. Kolarik
416 N. Broadway
Pittsburg, Kansas 66762,

Defendant.

Case No. 08AO-CC00097

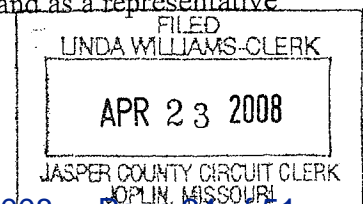
Division 2

FIRST AMENDED CLASS ACTION PETITION FOR DAMAGES

INTRODUCTION AND BACKGROUND

1. This is a class action lawsuit brought by persons who obtained motor vehicle loans evidenced by a retail installment contract and security agreement which were sold or assigned to Kansas Teachers Community Credit Union ("KTCCU"), as the secured party or lienholder, pursuant to a "Portfolio Management Program" administered by Centrix Financial, LLC ("Centrix").

2. Plaintiff Cecil E. Hopkins is the proposed class representative. He asserts claims arising under Missouri law against the KTCCU in his individual capacity, and as a representative



of a Class of similarly situated individuals, which stem from and relate to KTCCU's failure to comply with Missouri consumer protection laws with respect to motor vehicles repossessed by it.

3. Pursuant to the Portfolio Management Program, and pursuant to a standard loan placement agreement, Centrix acted as KTCCU's exclusive agent in obtaining consumer loans from dealers which would be financed and assigned to KTCCU upon consummation of the sale of the motor vehicles.

4. Plaintiff's loan and the loans of the Class members were all made for the purchase of motor vehicles which were used by them primarily for personal, family, household and/or consumer purposes. KTCCU retained a security interest and lien on the motor vehicles such that the collateral for the each of the loans was a consumer good.

5. Pursuant to the Portfolio Management Program, and pursuant to a standard portfolio servicing agreement, Centrix acted as the loan servicer and agent for KTCCU.

6. Centrix acted as an extremely aggressive loan servicer for its credit union principals, such as KTCCU, due to their substantial monetary investment in high-risk subprime motor vehicle loans.

7. KTCCU aggressively and unlawfully repossessed the Class members' motor vehicles in its effort to minimize its losses on its loans due to the default of the borrowers and the depreciation of the collateral. The repossessions at issue were done by KTCCU or for KTCCU or on its behalf by its agent and loan servicer, Centrix.

8. After the repossession of an motor vehicle, KTCCU was required by the consumer protection provisions of Missouri law, including the provisions of Part 6 of Article 9 of Missouri's Commercial Code, to send a "pre-sale" notice to the borrower that complied with the

provisions of §§ 400.9-613 and 400.9-614 RSMo. Centrix, acting as agent and on behalf of KTCCU routinely failed to provide such “pre-sale” notice. The failure of KTCCU to do so subjected it, as the secured party, to the penalties that Missouri law provides for such violations, at §§ 400.9-625 RSMo and 408.562 RSMo, and bars its ability or any entity claiming a subrogation right or similar right to seek a deficiency judgment against the Class members.

9. Further, the standard-form, computer-generated “pre-sale” notices that were in actually sent by KTCCU and/or through its agent, Centrix, to the Class members, failed to comply with and did not contain the content required by the provisions of §§ 400.9-613 and 400.9-164 RSMo. The pre-sale notices also contained content which was not authorized or allowed by §§ 400.9-613 and 400.9-164 RSMo, rendering them misleading and/or unreasonable. The sending of a defective notice is the equivalent of sending no notice at all.

10. After KTCCU became aware of its violations of the consumer protection provisions of Missouri law, and in an effort to avoid the substantial penalties and remedies that Missouri law provides for these violations, and in a wrongful and outrageous manner, KTCCU, directed and/or caused its agent Centrix to send to the Class members a communication (**Exhibit A**) which admitted to the violations of Missouri law but which also attempted by deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact (acts deemed unlawful by § 407.020 RSMo) to cause the Class members to unknowingly release their claims under the consumer provisions of Missouri law and to give up the substantial penalties and remedies that Missouri law provides for these violations, in exchange for \$100.00.

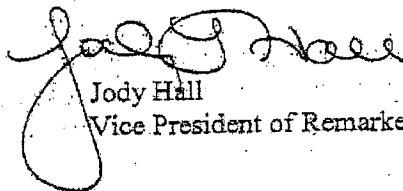
11. The letter stated:

Dear Cecil E Hopkins:

Enclosed please find a check made out to you for \$100.00. This check is sent in an attempt to settle a potential dispute between yourself and Centrix Financial, LLC arising out of a letter sent to you about Centrix's repossession and sale of your 2001 Chevrolet Monte Carlo in 2004. The letter may have contained an error because it may not have described things like Centrix's phone number, Centrix's address, the secured party, the intended method of sale of the car, a right to an accounting and the particulars of sale of the car and you may not have understood the letter. There is a lawsuit, *Smith v. Centrix*, pending in Jackson County, Missouri (Case No. 0516-CV-05165) on this issue, seeking to represent members of a currently uncertified class. The court's website is <http://www.courts.mo.gov/casenet>. This check is sent to address such issues in the event you misunderstood Centrix's communications.

If you sign and cash the enclosed check, you will be settling any dispute between yourself, Centrix and the secured party regarding the letter described above. Acceptance of this check will allow you to remain out of the lawsuit mentioned above. However, the \$100 will be yours to keep. Otherwise, the case will proceed. If you have questions, you should direct them to your personal counsel.

Sincerely,



Jody Hall
Vice President of Remarketing

12. The letter is false, deceptive, and misleading and the sending of such letter and the attempt by KTCCU to use this letter or the negotiation of the enclosed check as a defense to liability under Missouri law is, among other things, an act deemed unlawful by § 407.020 RSMo. The lawsuit referenced in the above-letter (*Smith v. Centrix*) does not include KTCCU, the secured party on the Class members' loans, as a Defendant. Further, the members of the Class in that action do not have claims against KTCCU or any other Defendant in this lawsuit. The letter at issue in *Smith v. Centrix*, however, is a standard-form, computer-generated letter that was sent by the secured party (Midwest United Credit Union), through its agent Centrix. The same, or substantially the same, letter was sent to the Class members here.

13. The conduct of KTCCU and its agent(s) for which it is responsible, was

outrageous, intentional, willful, wanton and malicious, and otherwise showed a complete indifference to or a conscious disregard of the rights of Plaintiff and the other members of the Class such that punitive damages are appropriate and warranted.

PARTIES

Plaintiff

14. Plaintiff Cecil E. Hopkins, currently resides at 222 W. Briarbrook Lane, Carl Junction, Missouri 64834. He obtained a loan from KTCCU in March of 2004 for the purchase of a motor vehicle to be used by him for personal and consumer purposes.

Defendant

15. Defendant Kansas Teachers Community Credit Union (Kansas Business Entity ID No. 0344598) f/k/a Kansas Teachers Credit Union, is a Kansas credit union regulated by the National Credit Union Association, as Charter No. 67995, and can be served with process by serving its President or Chief Executive, who, upon information and belief, is Mark S. Kolarik, at 416 N. Broadway, Pittsburg, Kansas 66762.

16. As a state credit union regulated as such under state and federal law, and as a banking institution and lender of money, KTCCU is a "moneyed corporation" within the meaning of § 516.420 RSMo and was at all times during the Class period.

Centrix As Agent of Defendant

17. At all times relevant to the allegations in this First Amended Petition and as referenced herein, KTCCU acted through its employees, representatives and agents, which representatives and agents included Centrix. These employees and agents were acting within the scope and course of their employment or agency with KTCCU, in furtherance of KTCCU

business, and/or as employees, agents and/or subcontractors of Centrix, who as it relates to the loans of the Class members, was acting as an representative and agent of KTCCU.

18. Neither Centrix Financial LLC nor any related debtor in the matter captioned as *In re Centrix Financial, LLC, et al.*, Case No. 06-16403 (EEB)(collectively, "Centrix"), in the United States Bankruptcy Court for the District of Colorado, is a defendant in this lawsuit.

JURISDICTION AND VENUE

19. The Circuit Court of Jasper County, Missouri has jurisdiction over KTCCU pursuant to § 506.500 RSMo since it transacted business in Missouri and made contracts in Missouri directly, and through its agent, Centrix, and committed unlawful actions and violated Missouri law within the state of Missouri.

20. KTCCU has sufficient minimum contacts, and in fact, substantial contacts, with Missouri such that the maintenance of this suit does not offend traditional notions of fair play and substantial justice and KTCCU has voluntarily submitted itself to the jurisdiction of this Missouri Court.

21. Jurisdiction is proper because, among other things:

- a) KTCCU, directly and purposefully, through its agent Centrix, contracted with Missouri residents and obtained hundreds, if not thousands, of motor vehicle loans from Missouri residents;
- b) KTCCU filed with Missouri's Department of Revenue a lien application regarding every loan to a Missouri resident for which it has acted as lienholder and obtained liens for the same;

- c) KTCCU obtained and perfected security interests and liens on those motor vehicles through the transaction of business in Missouri;
- d) Plaintiff's and the Class members' causes of action directly arise from KTCCU's transaction of business in Missouri;
- e) With its repossessions of the Class members' motor vehicles, KTCCU acted in Missouri to repossess the motor vehicles and/or sought the benefits and protections of Missouri law to ensure that the repossession was lawful and that it could obtain a repossession title or certificate of ownership pursuant to the provisions of § 301.215 RSMo, in order to sell and/or dispose of the collateral;
- f) Plaintiff's and the Class members' causes of action directly arise from KTCCU's repossession activity in Missouri;
- g) KTCCU sent correspondence and bills to Missouri residents and collected loan payments from the Class members residing in Missouri;
- h) KTCCU sent notices and defective pre-sale notices governed by the provisions of Missouri's consumer protection laws into Missouri;
- i) KTCCU, as a plaintiff and secured party, has filed actions in Missouri state courts and sought the benefits and protections of Missouri law, in its efforts to protect its secured interests in Missouri consumer loans;
- j) Plaintiff's and the Class members' causes of action directly arise from KTCCU's communications to them in Missouri;
- k) Plaintiff's and the Class members' causes of action directly arise from KTCCU's commission of unlawful acts in Missouri; and

- 1) KTCCU should reasonably anticipate being haled into court in Missouri to answer for its unlawful acts and those perpetrated by its agent, Centrix. Missouri has a strong interest in providing a forum for its residents aggrieved by violations of its consumer protection acts and laws.
22. Venue is proper in this Court pursuant to the terms of § 508.010.4 RSMo.

**EQUITABLE ESTOPPEL AND EQUITABLE TOLLING
OF THE STATUTE OF LIMITATIONS**

23. Using its defective and illegal pre-sale notices to the Class members, as well as the communication attached hereto as Exhibit A, KTCCU actively misled the Class members concerning their rights under Missouri law and it misrepresented the legality of its repossession activity and took action to prevent the Class members from enforcing their legal rights.

24. Accordingly, KTCCU should be estopped from relying upon any delay by the Class members in enforcing their rights under Missouri law, if any, and all applicable statutes of limitations on the Class members' claims should be equitably tolled.

CLASS ACTION ALLEGATIONS

25. This action is properly brought as a plaintiff class action under Mo. Rule 52.08 and § 407.025 RSMo. The Class includes those persons within the following definition:

- All persons who purchased a motor vehicle for personal, family or household purposes while a Missouri resident; and
- Whose loan for the purchase of that motor vehicle and/or the retail installment contract and security agreement executed in connection with the purchase of the motor vehicle was sold and/or assigned to Kansas Teacher Community Credit

Union as the secured party and lienholder pursuant to Centrix Financial LLC's Portfolio Management Program; and

- Whose motor vehicle was repossessed by Kansas Teachers Community Credit Union.
- Excluded from the Class are (1) Defendant and any entity in which Defendant has a controlling interest, their legal affiliates, predecessors in interest or assigns; (2) Any employee or representative of Defendant or excluded entity and/or member of the immediate family of an excluded employee or representative; and/or (3) Any member of the undersigned attorneys' immediate families.

26. The particular members of the Class are capable of being described without difficult managerial or administrative problems. The members of the Class are readily identifiable from the information and records in the possession or control of KTCCU, its agent Centrix (and any successor thereto), and/or the Missouri Department of Revenue.

27. The Class members are so numerous that individual joinder of all members is impractical. This allegation is based on the fact that Defendant KTCCU made hundreds of motor vehicle loans to Missourians as a result of its relationship with Centrix. Further, according to records of the Missouri Department of Revenue, Defendant KTCCU, by on its own behalf and acting through its agent(s), repossessed over one hundred motor vehicles in Missouri during the class period.

28. There are questions of law and fact common to the Class, which questions predominate over any questions affecting only individual members of the Class, and, in fact, the wrongs suffered and remedies sought by Plaintiff and the other members of the Class are

premised upon an common and illegal course of conduct perpetrated by KTCCU. The only material difference between the Class member's claims is the exact monetary amount to which each member of the Class is entitled. The principal common issues include, but are certainly not limited to, the following:

- (a) The nature and extent of Defendant KTCCU's participation in Centrix's Portfolio Management Program;
- (b) The nature of the standard loan placement agreement resulting in the loans to Plaintiff and the Class members;
- (c) The nature of the portfolio servicing agreement pursuant to which Centrix serviced the loans of the Class members;
- (d) on the nature of the default protection insurance and other insurance coverage obtained by KTCCU or for its behalf or benefit pursuant to the Portfolio Management Program;
- (e) Whether the pre-sale notices sent by KTCCU to Plaintiff and the Class members violate Missouri's Commercial Code;
- (f) Whether Defendant KTCCU utilized a standardized, computer preprinted pre-sale notice;
- (g) Whether Defendant KTCCU and its agents or representatives continue to issue defective pre-sale notices to the Class;
- (h) The nature and extent to which property of the Class members was wrongfully repossessed and/or converted because of a failure by KTCCU and/or its agent(s) to comply with Missouri law;

- (i) Whether Defendant KTCCU, by and through its course of unlawful conduct, is barred from collecting any deficiency balance that any Class member allegedly owes;
- (j) Whether Defendant KTCCU negligently, purposefully or recklessly disregarded Missouri law and the rights of the class members by virtue of or due to its reliance on the default protection insurance and other insurance coverage it obtained or that was obtained on its behalf or for its benefit pursuant to the Portfolio Management Program;
- (k) Whether Defendant KTCCU violated Missouri's Merchandising Practices Act;
- (l) Whether Defendant KTCCU unlawfully converted the Class members' motor vehicles;
- (m) Whether injunctive and declaratory relief is warranted;
- (n) The nature of injunctive and declaratory relief that is warranted – for example, whether KTCCU should be barred from reporting to credit agencies any deficiencies regarding borrowers whose motor vehicles were repossessed and whether it must take action void any judgments it has obtained against the class members;
- (o) The nature and extent of the Class members' actual damages;
- (p) The nature and extent of all statutory penalties and remedies for which Defendant KTCCU is liable to the Class members; and
- (q) Whether punitive damages are appropriate.

29. Plaintiff's claims are typical of those of the Class and are based on the same legal and factual theories.

30. Plaintiff will fairly and adequately represent and protect the interests of the Class. He has suffered substantial economic injury and damages in his own capacity from the practices complained of. Plaintiff is ready, willing and able to serve as class representative.

31. Moreover, Plaintiff's counsel is experienced in handling class actions and actions involving unlawful commercial practices. Neither Plaintiff nor his counsel has any interest that might cause them not to vigorously pursue this action.

32. Certification of a plaintiff class under Mo. Rule 52.08(b)(3) and § 407.025 RSMo is appropriate in that Plaintiff and the Class members seek monetary damages and that common questions predominate over any individual questions and a plaintiff class action is superior for the fair and efficient adjudication of this controversy. A plaintiff class action will cause an orderly and expeditious administration of Class members' claims and economies of time, effort and expense will be fostered and uniformity of decisions will be ensured. Moreover, the individual class members are likely to be unaware of their rights and not in a position (either through experience or financially) to commence individual litigation against the likes of Defendant KTCCU.

33. Alternatively, (a) Certification of a plaintiff class under Mo. Rule 52.08(b)(1) is appropriate in that inconsistent or varying adjudications with respect to individual members of the Class would establish incompatible standards of conduct for the Defendant or adjudications with respect to individual members of the Class as a practical matter would be dispositive of the interests of the other members not parties to the adjudications or would substantially impair or impede their ability to protect their interests; and/or (b) Certification of a plaintiff class under § 407.025 RSMo and Mo. Rule 52.08 is also appropriate in that Defendant KTCCU has and, upon

information and belief, continues to issue defective pre-sale notices under the Commercial Code and continues to unlawfully report to consumer credit agencies deficiencies on borrowers' loans resulting from the unlawful repossessions and should be barred and enjoined from doing the same.

ALLEGATIONS COMMON TO ALL COUNTS

34. Plaintiff, a Missouri resident, obtained a motor vehicle pursuant to a retail installment contract and security agreement which was sold or assigned to Kansas Teacher Community Credit Union pursuant to Centrix's Portfolio Management Program. Plaintiff is a member of the proposed Class.

35. Plaintiff's loan was obtained by KTCCU and assigned to KTCCU through the Portfolio Management Program. Pursuant to a preexisting agreement with Centrix, Plaintiff's credit application was submitted to KTCCU for approval and KTCCU approved the credit application and agreed to take an assignment of the Retail Installment Contract and Security Agreement from Plaintiffs' motor vehicle dealer upon Plaintiff's execution of the same.

36. Plaintiff's loan, like each of the loans of the Class members, was for the purchase of an motor vehicle to be used primarily for personal, family, household and consumer purposes.

37. Financing for the motor vehicle purchase was provided by KTCCU. KTCCU was identified by Missouri Department of Revenue records as the secured party and lienholder on Plaintiff's loan. Defendant KTCCU was also identified as the applicant for repossession title in the Missouri Department of Revenue's records.

38. Plaintiff's loan was serviced by Centrix as agent for KTCCU, the lienholder and secured party.

39. Pursuant to Centrix's Portfolio Management Program, and in conjunction with Plaintiff's motor vehicle loan and purchase, KTCCU obtained or purchased and/or was named as the insured on, or was covered by, a default protection insurance policy and other insurance policies.

40. On or about July 30, 2004, Defendant KTCCU, through its agent Centrix, caused Plaintiff's motor vehicle to be repossessed.

41. KTCCU later obtained a repossession title from the Missouri Department of Revenue transferring ownership of Plaintiff's motor vehicle to it.

42. On or about that same date, KTCCU, through its agent Centrix, sent to the Plaintiff a standard form, computer generated pre-sale notice governed by, and which violated the provisions of, Missouri's Commercial Code and consumer protection laws.

43. KTCCU acted with an evil motive and intentionally and/or recklessly in disregard of Plaintiff's legal rights and Missouri law in conjunction with the repossession of Plaintiff's motor vehicle and with the sending of notices required by Missouri's consumer protection laws.

44. Defendant also sent or caused to be sent to Hopkins' Missouri address the letter attached at **Exhibit A**. The sending of the letter and the content of the letter was unlawful for the reasons set forth in this Petition.

COUNT I

(Class Action for Violations of Missouri's Commercial Code)

45. Each preceding paragraph of this Petition is hereby incorporated as if fully set forth herein.

46. Defendant KTCCU, a banking institution and moneyed corporation, is engaged in the business of financing the purchase and sale of motor vehicles and similar consumer goods

and in the course of this business regularly repossesses and sells such collateral.

47. As a state credit union regulated as such under state and federal law, and as a banking institution and lender of money, KTCCU is a “moneyed corporation” within the meaning of § 516.420 RSMo and was at all times during the Class period.

48. The pre-sale notices sent by or on behalf of KTCCU to the Class members after or in conjunction with its repossessions of the Class members’ motor vehicles are standard form computer generated letters which are substantially the same, regardless of the recipient. The pre-sale notices were sent to the addresses set forth or identified on the class members’ retail installment contracts and security agreements, pursuant to the provisions of § 301.215 RSMo, so that KTCCU could obtain a certificate of title on a repossessed vehicle.

49. The form pre-sale notices fail to meet one or more of the requirements set forth in, and do not contain the content required by, §§ 400.9-611 through 400.9-614 RSMo. Further, KTCCU pre-sale notices did not attempt to follow or use the “safe harbor” format of §§ 400.9-613 and/or 400.9-614 RSMo and they included language or content not authorized or allowed by Missouri law, rendering the notices misleading and/or unreasonable. Accordingly, KTCCU liable for statutory damages according to the formula set forth in § 400.9-625(c)(2) RSMo.

50. Each and every one of the pre-sale notices sent by Defendant KTCCU , through its agent Centrix, to Plaintiff and to the Class members violated Missouri’s Commercial Code’s requirements in one or more of the following respects:

- a) the notices do not identify or describe the secured party, as required by §§ 400.9-613(1)(A) and 400.9-614(1)(A) RSMo;

- b) the notices misrepresent the secured party as Centrix (not KTCCU) contrary to the requirements of §§ 400.9-613(1)(A) and 400.9-614(1)(A) RSMo;
- c) the notices do not state the intended method of disposition of the collateral, as required by §§ 400.9-613(1)(C) and 400.9-614(1)(A) RSMo;
- d) the notices fail to inform the debtor that he or she is entitled to an accounting of the unpaid indebtedness, as required by §§ 400.9-613(1)(D) and 400.9-614(1)(A) RSMo;
- e) the notices do not state the intended time and place of a public disposition of the collateral or the intended time after which any other disposition is to be made, as required by §§ 400.9-613(1)(E) and 400.9-614(1)(A) RSMo;
- f) the notices do not provide a phone number at which the redemption amount is available as required by § 400.9-614(1)(C) RSMo;
- g) the notices do not advise the debtor of a telephone number from which the amount that must be paid to the secured party to redeem the collateral under § 400.9-623 is available, as required by § 400.9-614(1)(C) RSMo; and/or
- h) The notices contain content not allowed or authorized by Missouri law rendering the notices misleading and/or unreasonable, such as a purported redemption requirement which obligates the class members to provide proof of “verifiable employment” to redeem their motor vehicles; and
- i) the notices do not advise the debtor of a telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available, as required by § 400.9-614(1)(D) RSMo.

51. The sending of a defective notice is the equivalent of sending no notice at all and any doubt about what constitutes strict compliance with the requirements of pre-sale notice requirements of the Commercial Code is resolved in favor of Plaintiff and the Class members.

52. As a result of the above violations of Missouri's Commercial Code, Defendant KTCCU is liable to Plaintiff and to each Class member for the statutory damages imposed by § 400.9-625(c)(2) RSMo.

53. As a result of the above violations of Missouri's Commercial Code, Defendant KTCCU is also barred from collecting any deficiency balance on the loans.

54. As a result of the above violations of Missouri's Commercial Code, Defendant KTCCU is also barred from reporting to any credit reporting agencies that there is a deficiency balance on the loans.

55. Because KTCCU obtained and/or purchased, and/or was named as the insured on policies of default protection insurance and other insurance in conjunction with Portfolio Management Program and on Plaintiff's and the Class members' loans, or was covered under such policies, KTCCU had little incentive to comply with Missouri's Commercial Code and consumer protection laws. As such, and for this and other reasons, the conduct of Defendant KTCCU, and its agent(s) for which it is responsible, was outrageous, intentional, willful, wanton and malicious, and conducted with an evil motive and otherwise showed a complete indifference to or a conscious disregard of the rights of Plaintiff and the other members of Class such that punitive damages are appropriate and warranted.

COUNT II
(Class Action for Violations of Missouri's Merchandising Practices Act)

56. Each proceeding paragraph of this Petition is hereby incorporated as if fully set forth herein.

57. As a state credit union regulated as such under state and federal law, and as a banking institution and lender of money, KTCCU is a "moneyed corporation" within the meaning of § 516.420 RSMo and was at all times during the Class period.

58. Defendant KTCCU provided financial, loan and/or banking services to Plaintiff and the Class members for primarily personal, family, household and consumer purposes.

59. Borrowers qualifying for financing through the Portfolio Management Program and the KTCCU/Centrix agreements (*i.e.*, the Class members) typically had past credit problems and histories and lower credit scores. As such, these borrowers and the Class members were typically susceptible to manipulation and overreaching by lenders and financiers, and were targeted for high-cost and high-interest rate "subprime" motor vehicle loans.

60. KTCCU was willing to make such loans and to engage in this type of lending activity because the Portfolio Management Program allowed it to delegate all aspects of the motor vehicle financing and servicing process to a third party agent, *i.e.*, Centrix, and thus to treat its entire motor vehicle lending as an investment program requiring little to no due diligence scrutiny or monitoring of its agent(s).

61. Further, built into the costs of each of the loans, but not disclosed or explained to the Class members, were the premiums for policies of default protection insurance and other insurance which named KTCCU as the insured and/or which covered KTCCU for losses caused by borrower defaults and repossessions.

62. In June 2005, the National Credit Union Association issued a "Risk Alert" (No. 05-RISK-01) on the subject of "Specialized Lending Activities – Third Party Subprime Indirect Lending and Participations" to all credit unions, such as KTCCU.

63. This Risk Alert was essentially a direction to credit unions, such as KTCCU, to discontinue their relationships with Centrix and their involvement in the Portfolio Management Program because of the substantial risks to the credit unions associated with the lending program, which the National Credit Union considered as an unsafe and unsound practice and a violation of the credit unions' responsibilities to establish lending policies and internal controls under § 113 of the Federal Credit Union Act.

64. Notwithstanding the Risk Alert and the warnings to it, Defendant KTCCU did not discontinue its relationship with Centrix or its involvement in the Portfolio Management Program. Instead, KTCCU continued its relationship and involvement in the lending program because of its substantial investment in subprime loans, including the Class members' loans, and because its lending program gave it significant monetary incentives to violate Missouri's consumer protection laws and its Commercial Code, and to disregard the rights of Missourians, which it did.

65. In fact, through its lending program and the Portfolio Management Program KTCCU used and employed a number of methods, acts and practices declared unlawful by § 407.020 RSMo to cause Plaintiff and the Class members to suffer ascertainable losses of their money and property in violation of Missouri's Merchandising Practices Act.

66. These losses include, but are not limited to, the loss of ownership and use of their motor vehicles, loss of loan payments and "wasted" loan payments, the payment of hidden and

undisclosed premiums for the default protection and other insurance policies built into the cost of their loans, the loss of claims against KTCCU and defenses to its efforts at collection, loss of money through their payments of deficiency judgments, and the increased cost of credit to them in future credit transactions.

67. Specifically, Defendant KTCCU, acting through its employees, representatives and agents, including Centrix, engaged in unlawful practices and acted with or used or employed deception, fraud, false pretenses, false promises, misrepresentations, unfair practices, or otherwise concealed, suppressed or omitted to inform each Plaintiff and Class member of certain material facts in connection with its motor vehicle loans and transactions in violation of Missouri's Merchandising Practices Act and § 407.020 RSMo. The acts and the conduct in violation of Missouri's Merchandising Practices Act, and § 407.020 RSMo include, but are not necessarily limited to, the following:

- a) Defendant KTCCU purposefully sent, allowed or authorized to be sent, and/or later ratified the sending of, defective, misleading, unreasonable, and/or legally insufficient "pre-sale" notices governed by Missouri's Commercial Code in its effort to minimize its losses caused by repossessions;
- b) Defendant KTCCU's defective pre-sale notices misrepresented its right to seek deficiency judgments from the Class members through the statement (or similar statements) that: "You are further advised that if the proceeds of the sale of said collateral are not sufficient to satisfy your account with Centrix Resource Systems, LLC, you will be liable for the balance then remaining after net proceeds are credited to your account" because the notice was defective pursuant

to the provisions of §§ 400.9-611 through 400.9-614 RSMo including, among other things, the fact that the Class members had no accounts with “Centrix Resource Systems, LLC,” but instead with KTCCU, which was the secured party and lienholder;

- c) Defendant KTTCU sent the letter attached as Exhibit A to this First Amended Petition to the Class members in an effort to mislead the Class members’ concerning their legal rights and to prevent their assertion of their legal rights against KTCCU;
- d) Defendant KTCCU included content in its notices which was misleading and unreasonable in that KTCCU intended to cause the class members to believe that things were required for redemption, such as providing proof of “verifiable employment,” when such a requirement is not required by Missouri law or the retail installment contract and security agreement; all in order to prevent and discourage the class members from redeeming their motor vehicles;
- e) By virtue of its defective re-sale notices, Defendant engaged in a deceptive practice which caused the Class members to accept the repossession and sale process without question in an effort to deprive them defenses to deficiency lawsuits and judgments and to false or erroneous credit reporting;
- f) KTCCU did not disclose to the class members and/or concealed from the class members that it had obtained or purchased and/or that it was named as insured on or benefited from the coverage on policies of default protection insurance and other insurance in conjunction with the Class members’ loans. Instead, the cost

- for the premiums for this insurance was built into the cost of credit to the Class members and the terms of their high-interest, high-cost subprime loans;
- g) KTCCU used and relied upon this insurance to reimburse it in whole or part for losses caused by the class members' loan defaults and repossessions. Because of this insurance, KTCCU had significant incentives to disregard Missouri's consumer protection laws, which it did;
 - h) By targeting subprime borrowers in need of financing, KTCCU was able to obtain the Class members' agreements to high-cost and high-interest loans containing hidden and undisclosed charges for insurance and other costs;
 - i) In addition, in order to make an application or affidavit for repossession title, which was governed by the provisions of § 301.215 RSMo, KTCCU was required to certify under penalty of perjury, among other things, that the class members were in default on their loans, that the motor vehicles were repossessed in accordance with the terms of the class members' contracts which were assigned to KTCCU and in accordance with Missouri law, and that KTCCU had provided the class members with written notice of the repossessions required by the provisions of Missouri's Commercial Code at §§ 400.9-613 and 400.9-614 RSMo. These certifications were false, and through these false certifications KTCCU obtained a repossession title transferring legal ownership of the class members' motor vehicles to it; and
 - j) Defendant KTCCU unlawful repossession activity, defective pre-sale notices and its course of unlawful conduct were intended to and did deprive class members or

to cause the class members a loss of their motor vehicles, money and property as described above.

68. Plaintiff and the Class members justifiably and reasonably relied on Defendant KTCCU's misrepresentations, omissions, and deceptive practices and Defendant's unlawful and unfair practices caused substantial injury and damages to the Class members.

59. The conduct of Defendant KTCCU, and its agent(s) for which it is responsible, was outrageous, intentional, willful, wanton and malicious, and otherwise showed a complete indifference to or a conscious disregard of the rights of Plaintiff and the other members of Class, such that punitive damages are appropriate and warranted. Punitive damages are warranted to ensure that the purposes of the Merchandising Practices Act – to preserve fundamental honesty, fair play and right dealings in public transactions – are promoted, and that violations thereof do not go unpunished and unremedied.

COUNT III
(Class Action for Conversion)

60. Each preceding paragraph of this Petition is hereby incorporated as if fully set forth herein.

61. Defendant KTCCU caused motor vehicles owned by the Class members to be repossessed and sold to third parties. As described above, these repossessions were an unauthorized and unlawful assumption of the right of ownership over the personal property of the Class members to the exclusion of the Class members' rights.

62. At some point after Defendant KTCCU repossessed the Class members' vehicles, it applied for and obtained certificates of title on the class members' motor vehicles, which it then sold, thus permanently depriving the Class members of property rightfully belonging to the

Class members.

63. Defendant KTCCU's sales of the collateral/motor vehicles were perpetrated and accomplished all through a course of unlawful conduct, false certifications, and deceptive conduct and wrongfully dispossessed the Class members of their property and converted the Class members' property for the use of the Defendant.

64. The conduct of Defendant KTCCU, and its agent(s) and representatives for which it is responsible, was outrageous, intentional, willful, wanton and malicious, and otherwise showed a complete indifference to or a conscious disregard of the rights of Plaintiff and the other members of Class such that punitive damages are appropriate and warranted.

PRAYER FOR DAMAGES

WHEREFORE, Plaintiff, on behalf of himself and all members of the Class, respectfully prays for judgment against Defendant KTCCU as follows:

- a) For an order certifying that this action may be maintained as class action under Mo. Rule 52.08(b)(3) and § 407.025.3 RSMo, appointing Plaintiff and his undersigned counsel, J. Michael Vaughan, R. Frederick Walters, Garrett M. Hodes and Don P. Saxton, of Walters, Bender, Strohbehn & Vaughan, P.C., to represent the Class, and directing that reasonable notice of this action be given to all other members of the Class as necessary and appropriate;
- b) For all actual damages, statutory damages, penalties, and remedies available for Defendant's violations of Missouri law, including Missouri's Commercial Code and Missouri's Merchandising Practices Act, as provided by §§ 400.9-625(c)(2) and 407.025 RSMo;

- c) For pre-judgment interest as provided by law;
- d) For post-judgment interest as provided by law;
- e) For a declaration that Defendant's pre-sale notice fails to comply with Missouri's Commercial Code;
- f) An order requiring the Defendant to take action to void any and all deficiency judgments obtained against the Class members and to forfeit and return any unlawfully collected deficiency judgments;
- g) For a permanent injunction enjoining the Defendant KTCCU by its own actions or through the use of a third party or agent, from issuing any pre-sale notice that fails to comply with Missouri's Commercial Code, restraining any further repossessions, and applications for repossession title, or disposition of the collateral, from collecting any deficiency judgments resulting from a repossession in which a defective pre-sale notice was issued and/or from reporting or continuing to report to consumer credit reporting agencies that the Class members owe any deficiency judgments resulting from a repossession in which a defective pre-sale notice was issued;
- h) For an award to Plaintiff and the Class of their costs and expenses of this action;
- i) For an award to Plaintiff and the Class of their reasonable attorneys' fees; and
- j) For such other and further relief as the Court may deem necessary and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial on all issues so triable.

Dated: April 22, 2008

Respectfully submitted,

WALTERS BENDER STROHBEHN &
VAUGHAN, P.C.

By: 

J. Michael Vaughan – Mo. Bar 24989

R. Frederick Walters – Mo. Bar 25069

Garrett M. Hodes – Mo. Bar 50221

Don P. Saxton – Mo. Bar 56840

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1100 Main Street

P.O. Box 26188

Kansas City, MO 64196

(816) 421-6620

(816) 421-4747 (Facsimile)

ATTORNEYS FOR PLAINTIFFS AND
PROPOSED CLASS COUNSEL



REDACTED

February 1, 2006

REDACTED

Cecil E Hopkins
~~505 Karen Drive~~
Carl Junction, MO 64834

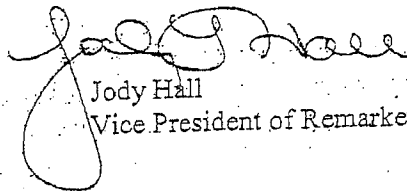
> ^{new} 222 W. Brnarbrook LN.

Dear Cecil E Hopkins:

Enclosed please find a check made out to you for \$100.00. This check is sent in an attempt to settle a potential dispute between yourself and Centrix Financial, LLC arising out of a letter sent to you about Centrix's repossession and sale of your 2001 Chevrolet Monte Carlo in 2004. The letter may have contained an error because it may not have described things like Centrix's phone number, Centrix's address, the secured party, the intended method of sale of the car, a right to an accounting and the particulars of sale of the car and you may not have understood the letter. There is a lawsuit, Smith v. Centrix, pending in Jackson County, Missouri (Case No. 0516-CV-05165) on this issue, seeking to represent members of a currently uncertified class. The court's website is <http://www.courts.mo.gov/casenet>. This check is sent to address such issues in the event you misunderstood Centrix's communications.

If you sign and cash the enclosed check, you will be settling any dispute between yourself, Centrix and the secured party regarding the letter described above. Acceptance of this check will allow you to remain out of the lawsuit mentioned above. However, the \$100 will be yours to keep. Otherwise, the case will proceed. If you have questions, you should direct them to your personal counsel.

Sincerely,


Jody Hall
Vice President of Remarketing



Enclosure

Centrix Financial, LLC | 6782 S. Potomac St., Centennial, CO 80112 | tel: 303.223.7000 | fax: 303.391.3654



IN THE 29TH JUDICIAL CIRCUIT COURT, JASPER COUNTY, MISSOURI


Judge or Division: DAVID C DALLY	Case Number: 08AO-CC00097	<div style="border: 1px solid black; padding: 5px;"> <p style="text-align: center;">FILED LINDA WILLIAMS-CLERK</p> <p style="text-align: center; font-size: 1.2em;">APR 28 2008</p> <p style="text-align: center;">JASPER COUNTY CIRCUIT CLERK JOPLIN, MISSOURI</p> </div>
Plaintiff/Petitioner: CECIL E HOPKINS	Plaintiff's/Petitioner's Attorney/Address: J MICHAEL VAUGHAN SUITE 2500 1100 MAIN ST KANSAS CITY, MO 64105	
Defendant/Respondent: KANSAS TEACHERS COMMUNITY CREDIT UNION	Court Address: 601 S. Pearl JOPLIN, MO 64801	
Nature of Suit: CC Other Miscellaneous Actions		

(Date File Stamp)

Summons for Service by Registered or Certified Mail

The State of Missouri to: KANSAS TEACHERS COMMUNITY CREDIT UNION
Alias:

416 N BROADWAY
PITTSBURG, KS 66762



COURT SEAL OF
CIRCUIT COURT OF MISSOURI
JASPER COUNTY

You are summoned to appear before this court and to file your pleading to the petition, copy of which is attached, and to serve a copy of your pleading upon the attorney for the Plaintiff/Petitioner, or Plaintiff/Petitioner, if pro se, at the above address all within 30 days after the return registered or certified mail receipt signed by you has been filed in this cause. If you fail to file your pleading, judgment by default will be taken against you for the relief demanded in the petition.

4-28-08
Date Issued

Linda Williams
Circuit Clerk

Further Information: Linda Craig DC

Certificate of Mailing

I certify that on 4-28-08 (date), I mailed a copy of this summons and a copy of the petition to Defendant/Respondent KANSAS TEACHERS COMMUNITY CREDIT UNION by registered or certified mail, requesting a return receipt by the addressee only, to the said Defendant/Respondent at the address furnished by Plaintiff/Petitioner.

4-28-08
Date

Linda Craig DC
Clerk