

IN THE CIRCUIT COURT OF HAMILTON COUNTY, TENN.

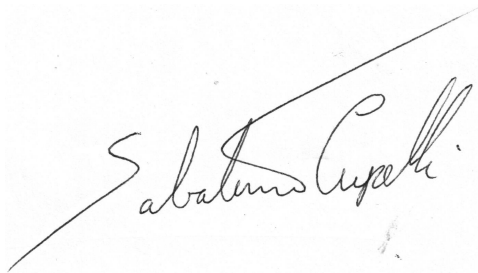
Flexibility Capital Inc.)	
)	
vs.)	
)	Case No.
Sabatino Cupelli)	22C429
8665 Summit Creek Way)	
Chattanooga, TN37363)	Div. 4
David Jonathan Tulis)	
10520 Brickhill Lane)	
Soddy-Daisy TN 37379)	

Supplemental Filing

The accused in the above-styled matter submit into the court's record the following:

1. Admissions and confessions, 8pp
2. Interrogatories, 6pp. /

Respectfully submitted,



By _____
Sabatino Cupelli

By _____
David Jonathan Tulis

Interrogatories for Flexibility Capital vs. Cupelli & Tulis

The defendants in this case demand evidence as described below, and they demand answers to the questions attached to each of the fields of data they are demanding be produced as part of their defense.

These demands for discovery are demanded to be produced, as commanded by the court, and that the answers be sworn and notarized, as follows:

1. **Electronically stored information.**

(a) Please produce any and all information beyond that supplied by plaintiff in motion for summary judgment bearing defendants' names that is stored in any and all electronic media and is retrievable in perceivable form.

(b) Provide a sworn statement that this ESI evidence that is to be submitted to defendants is true, accurate and complete, that other ESI exists touching on the alleged contract at issue in this case.

2. **Personal knowledge witness information.**

(a) Please produce the identity, title, location (mailing address) of all *natural persons (man or woman)* having personal firsthand knowledge of any matter leading to the discovery of admissible evidence relevant to the pending action against defendant, per Tennessee evidence rule 602.

(b) Please attest under oath that the name of this person (or persons) and contact information is sufficient for this demand for sworn information, and that there is no other person with witness information about this contract.

3. **Alleged original creditor.**

(a) Please provide the name and address of the original creditor if different from FLEXIBILITY CAPITAL INC., the purported plaintiff in this case.

(b) Please swear by affidavit that this record containing this information about the original party to the contract in dispute is true, accurate and complete.

4. **Holder in due course.**

(a) Please provide verified (sworn to by affidavit) evidence that the alleged creditor, FLEXIBILITY CAPITAL INC., is the secured party in the instant matter, i.e., holder in due course, and has a perfected security interest in the aforesaid alleged agreement and alleged debt.

(b) Please swear by affidavit that this record containing this information is true, accurate and complete.

5. **Alleged original agreement:**

(a) Please provide defendants a verified copy, both front and back, of the alleged original agreement and any other alleged original security instruments in their entirety, including the allonge,¹ affixed to the original alleged agreement for indorsements. Note: Said affidavit is to be sworn to be true, correct, complete, and not misleading, by a properly identified and authorized officer of the alleged creditor, who states that he or she has personal, first hand knowledge of the validity of said alleged original document(s)).

(b) Please swear by affidavit that this record containing this information is true, accurate and complete.

6. **Custodian of document(s).**

(a) Please provide the name, title, and address of the natural person custodian (or custodians) of the alleged original agreement and of any other alleged original security instruments.

(b) Please swear by affidavit that this record containing this information is true, accurate and complete.

7. **Address of physical location of document(s).**

(a) Please provide the address of the physical location of the alleged original agreement and any other alleged original security instruments if different from No. 6 above.

(b) Please swear by affidavit that this record containing this information is true, accurate and complete.

¹ Allonge. A piece of paper annexed to a negotiable instrument or credit card agreement, on which to write indorsements for which there is no room on the instrument itself. Such must be so firmly affixed thereto as to become a part thereof. U.C.C. § 3-202(2). Black's Law Dictionary, 6th Edition, page 76.

8. Proof of value given.

(a) Please provide verified copies, both front and back, of all documents and records with respect to the aforesaid alleged agreement and alleged debt from the beginning, including but not limited to, any and all lender-issued canceled certified checks, cashiers' checks, money equivalents or similar instruments, identified as or evidencing assets provided by the alleged creditor and/or the alleged original creditor to us — and indorsed by the accused parties.

(b) Please swear by affidavit that this record containing this information is true, accurate and complete.

9. Deposit slip and wire transfer proof.

(a) Please provide a verified copy of the **deposit slip** for the deposit of our alleged agreement in its entirety by the alleged creditor associated with the alleged account number ending in 8101, and a verified copy of the **wire transfer** issued by the alleged creditor as payor in payment for my alleged agreement in its entirety and any other alleged related security instruments.

(b) Please swear by affidavit that the record containing this information is true, accurate and complete.

10. Affidavit of debt & damages.

(a) Please provide an affidavit of debt and damages incurred, sworn to be true, correct, complete, and not misleading, by a properly identified and authorized officer of the alleged creditor, hereinafter "affiant," upon his or her personal knowledge (Evidence Rule 602) stating:

1) that the alleged creditor provided consideration to the alleged debtor from the assets it had on hand BEFORE the alleged consideration for future receipts was made, and incurred a financial loss under the full and complete alleged original agreement and alleged debt, and state each and every loss that the alleged creditor incurred to date under the alleged debt in issue, and

2) that affiant has personal, firsthand knowledge (TRE Rule 602) regarding the facts of the alleged debt and is the original custodian of the

books of entry, or directly supervises said original custodian of the records.

(b) Please swear by affidavit that the record containing this information is true, accurate and complete.

11. Bookkeeping journal / account ledger entries.

(a) Please provide a verified (sworn to by affidavit) copy of the complete set of *original bookkeeping journal / account ledger entries associated with defendants' alleged agreement* and alleged account number using Generally Accepted Accounting Principles per 12 U.S.C. § 1831n, showing all debits and credits and identifying the source(s) and amount of the credit loan funds/assets; Note: The verifying affidavit of journal / account ledger bookkeeping entries are to be completed by the original custodian of the books and records, sworn to be true, correct, complete, and not misleading. (This person is named No. 2, above, personal knowledge witness, whose contact information we herein obtain.) Further, said affidavit shall contain positive identification of the custodian, and state that he or she has personal, firsthand knowledge (Tenn. Rules of Evid. No. 602) of said entries.

(b) This custodian of the *original bookkeeping journal / account ledger entries associated with defendants' alleged agreement* must swear by affidavit that the record containing this information is true, accurate and complete.

12. Assignment contract.

(a) Please provide verified (sworn to by affidavit) proof of an assignment contract in its entirety — if applicable — of the alleged original agreement and the alleged debt in issue from an alleged original creditor, as assignor, to the alleged creditor/debt collector, as assignee.

(b) In a discovery response earlier, plaintiff says there “has been no assignment of the debt.” Accused demands a statement under oath as to the origins of the funds.

(b) Earlier, plaintiff says there “has been no assignment of the debt.” This response to the discovery demand is doubtful, as the contract states the “the Purchased Amount is a payment for an adequate consideration” and “is not intended to be treated as a loan or financial accommodation from Buyer to Merchant”; “that Buyer has not offered any loans to Merchant” and that “Buyer is not a lender, bank or credit card processor”

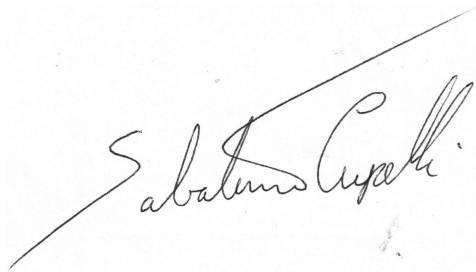
(Personal guaranty of performance, ¶ 5). Accused demand plaintiff establish its purported claim to be the original party in interest.

13. **Proof of authority:** Please provide a verified copy of the contract Cheadle Law firm/debt collection agent has with the alleged original creditor which authorizes the debt collection agency/law firm to engage in debt collection activities on its behalf against the above alleged (“loan”) account, and naming Cheadle as an authorized debt collection agent(s);

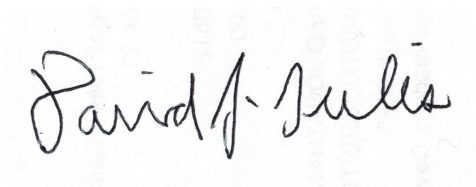
CERTIFICATE OF SERVICE

Sabatino Cupelli and David Jonathan Tulis certify that a true and exact copy of this motion is being sent by email to Mary Cheadle at mheadle@cheadlelaw.com on this 28th day of October, 2022

Mary Cheadle
2404 Crestmoor Road
Nashville, TN 37215



Sabatino Cupelli



David Jonathan Tulis