

BRENT COON & ASSOCIATES

12201 Big Bend Suite 200. • St. Louis, MO 63122 • 314.822.0732 • 314.822.0943 Facsimile

June 21, 2010

NCR Corporation
c/o Registered Agent
CT Corporation System
208 South LaSalle Street, Suite 814
Chicago, IL 60604

RE: *Piechur v. Redbox Automated Retail, LLC, Case No. 09-L-562, St. Clair County, IL*
Sent via Certified Mail, Return Receipt Requested No. 7005 1160 0003 0705 4869

Dear Sir or Madam:

Enclosed please find a subpoena including attachment A, a notice of discovery deposition and a business records affidavit. At your earliest convenience, please contact me to discuss these matters.

I request that you produce all responsive documents in PDF format. If you cannot produce documents in such a format, then I request that you produce documents in printed form unless we otherwise agree in writing to a different electronic format beforehand. Prior to copying any documents, please contact me because I may want to inspect them first.

After you compile all responsive documents, please produce them with an executed, notarized business records affidavit. For your convenience, I have enclosed a form affidavit. ***If I receive the documents and executed affidavit no less than three days prior to the scheduled deposition referenced in the enclosed notice of discovery deposition, then the deposition will be cancelled pursuant to Illinois Supreme Court Rule 204(a)(4).*** The cancellation of this deposition, however, does not mean that I will not depose you on a different date.

If you refuse to produce any documents responsive to the enclosed subpoena, then please be aware that such documents are an important and irreplaceable source of evidence in this class action. Accordingly, please take every necessary step to preserve all responsive documents until the court resolves any disputes.

Very Truly Yours,

Jeffrey A. J. Millar

cc: Eric Brandfonbrener
Robert Sprague

Encls. (1) Notice of discovery deposition
(2) Subpoena including Attachment A
(3) Sample business records affidavit
(4) Cashier's Check #0000406

Beaumont, TX • Austin, TX • Houston, TX • Baton Rouge, LA

Boston, MA • Cleveland, OH • Jackson, MS • Nashville, TN •

Philadelphia, PA • San Francisco, CA • St. Louis, MO

IN THE CIRCUIT COURT FOR THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

LAURIE PIECHUR, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

REDBOX AUTOMATED RETAIL, LLC.,

Defendant.

Case No. 09 L 562

NOTICE OF DISCOVERY DEPOSITION

TO: All Counsel of Record

PLEASE TAKE NOTICE THAT Plaintiff shall take the following discovery
deposition:

Deponent: NCR Corporation, Custodian of Records
Date: July 9, 2010
Time: 11:00 a.m.
Location: 1700 South Patterson Blvd
Dayton, OH 45479

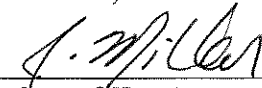
This deposition shall occur before a Notary Public on oral interrogatories pursuant to applicable statutes and rules, at which time and place you may be present and participate if you so desire. *No deposition will be taken if deponent serves true and complete copies of the subpoenaed documents or tangible things along with an executed business records affidavit on the requesting party at least three (3) days prior to the scheduled deposition.*

cc: Pohlman Reporting (Court Reporters)

DATED: June 21, 2010

Respectfully submitted,

LAURIE PIECHUR,
Class Plaintiff,

By: 

One of Her Attorneys

Thomas G. Maag #6272640
Wendler Law, P.C.
900 Hillboro, Suite 10
Edwardsville, IL 62025
Telephone: (618) 692-0011
Facsimile: (618) 692-0022

Jeffrey A. J. Millar #6271673
Brent Coon & Associates, P.C.
12201 Big Bend Blvd, Suite 200
St. Louis, MO 63122
Telephone : (314) 822-0732
Facsimile : (314) 822-0943

Thomas Q. Keefe, Jr. #3123418
Thomas Q. Keefe, Jr., P.C.
6 Executive Woods Court
Belleville, IL 62226
Telephone: (618) 236-2221
Facsimile: (618) 236-2194

Peter J. Maag #6286765
Maag Law Firm, LLC
P.O. Box 224
Breese, IL 62230
Telephone: (618) 541-2934

Attorneys for Plaintiff and Proposed Classes

**IN THE CIRCUIT COURT FOR THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS**

LAURIE PIECHUR, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

REDBOX AUTOMATED RETAIL, LLC.,

Defendant.

Case No. 09 L 562

Certificate of Service

The undersigned certifies that, on June 21, 2010, a true and correct copy of the foregoing was served by depositing it in the U.S. Mail, postage pre-paid, upon the following:

Robert Sprague
SPRAGUE & URBAN
26 East Washington Street
Belleville, IL 62220
PHONE: (618) 233-8383
FAX: (618) 233-5374

Eric D. Brandfonbrener
Jonathan R. Buck
PERKINS COIE LLP
131 S. Dearborn Street, Suite 1700
Chicago, IL 60603-5559
PHONE: (312) 324-8602
FAX: (312) 324-9602

ATTORNEYS FOR DEFENDANT

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.



IN THE CIRCUIT COURT OF THE TWENTIETH
JUDICIAL CIRCUIT
ST. CLAIR COUNTY, IL

Laurie Piechur

Vs.

Redbox Automated Retail, LLC

No. 09-L-562

SUBPOENA FOR DEPOSITION

To: NCR CORPORATION, Custodian of Records

You are commanded to appear to give your deposition before a notary public ~~in room~~
~~xxxxxx~~ at 1700 South Patterson Blvd, Dayton ~~Illinois~~ Ohio on
July 9, 20 10, at 11:00A .M.

YOU ARE COMMANDED ALSO to bring the following:

Please see documents listed in Attachment A

in your possession or control.

YOUR FAILURE TO APPEAR IN RESPONSE TO THIS SUBPOENA WILL SUBJECT YOU
TO PUNISHMENT FOR COMTEMPT OF THIS COURT.

WITNESS, _____, 20, _____

Brendan F Kelly
BRENDAN F. KELLY, Circuit Clerk

By: [Signature]
Deputy

On June 21, 2010 I served the subpoena by depositing it in the U.S. Mail, postage pre-paid addressed to NCR Corporation, c/o CT Corporation System, Registered Agent, 208 South LaSalle Street, Suite 814, Chicago, IL 60604, restricted delivery, certified mail no. 7005 1160 0003 0705 4869, return receipt requested, with a check for a \$20.00 witness fee pursuant to 705 ILCS 35/4.3. No mileage fee was paid because the notice of deposition is set for defendant's corporate headquarters at 1700 South Patterson Blvd, Dayton, OH 45479.

Signed and sworn to before me

[Signature]
(Notary Public)



CHRISTINA POWERS
My Commission Expires
January 24, 2011
St. Louis County
Commission #07999705

Attorney Jeffrey A. J. Millar [Signature]

Address 12201 Big Bend Road, Suite 200

City, State, Zip St. Louis, MO 63122

Telephone (314) 822-0732

ATTACHMENT "A"

DEFINITIONS

In addition to their usual and customary meanings, the following terms, including any derivations thereof, shall be defined as follows and apply to your responses:

1. The terms "you" and "your" means NCR Corporation and its predecessors, successors, subsidiaries, unites, divisions, affiliates, joint ventures, parents, officers, directors, agents, employees and/or independent contractors (including without limitation, its attorneys, accountants, bankers, advisors, public relations firms, advertising firms, and marketing firms), and all persons acting or purporting to act for or on behalf of it.

2. The term "Defendant" means the named defendant(s) in this action, Redbox Automated Retail, LLC and shall also include all parents, subsidiaries, affiliates (including but not limited to indirect corporate affiliates), officers, directors, employees, agents, counsel and representatives thereof.

3. The term "Plaintiff" means Laurie Piechur.

4. The term "entity" means any proprietorship, partnership, firm, corporation, association, governmental agency or other organization.

5. The relevant time period for the existence of responsive documents is any time from January 1, 2002 to the present, unless otherwise indicated.

6. The term "document" shall be interpreted in the broadest possible sense and means any document, object to tangible thing subject to discovery under Rule 214 including, without limitation, all written recorded, printed, typed, transcribed, filmed, digitized, or graphic matter and all other tangible things and media upon which any handwriting, typing, printing, drawing, representation, electrostatic or other copy, sound and video recording, visual

reproduction or communication is recorded, reproduced or represented, including but not limited to, books, records, correspondence, reports, memorandum, electronic mail (i.e., “e-mail”), contracts, tables, graphs, charts, diagrams, calendars, appointment books, reports, studies, analyses, drafts, files, telephone logs and, messages, checks, microfilms, electronic data compilations, drafts, tapes, diskettes, notes, minutes or transcripts of proceedings. Documents shall include originals and all non-identical copies (whether different from the original because of notes made in or attached to such copy or otherwise) all other data compilations from which information can be obtained, and any preliminary versions, drafts or revisions of any of the foregoing.

7. The term “communication” or “communicate” means any sharing of information with another person in person ,on the telephone or in written form in a discussion, conversation letter facsimile, note, electronic message (i.e., “E-mail”) or any other vocal, hand or type written form.

8. The term “refer” or “relate” means to make a statement about, discuss, describe, show, reflect, concern, identify, constitute, consist of, or pertain to, in whole or in part, the subject.

9. The term “testimony” or “testify” means to testify in a deposition or in court, or to provide an affidavit, declaration or any other form of sworn statements.

10. Except as specifically provided herein, words imparting the singular shall include the plural and vice versa.

11. Notwithstanding the foregoing, to the extent you contend any word or phrase is not defined or otherwise vague and/or ambiguous, Plaintiff will accept a dictionary definition of that word or phrase as indicative of its meaning.

REQUESTS

1. All documents referring or relating to the “Vending Machine Rental Terms” as published on Blockbuster, Inc.’s website at <http://www.blockbusterexpress.com/kiosks>.
2. All documents referring or relating to the operation, licensing, implementation, collection, and payment to Blockbuster, Inc. of any “Extra Day Rates” or “Purchase Date” fees as those terms are defined in the “Vending Machine Rental Terms” as published on Blockbuster, Inc.’s website at <http://www.blockbusterexpress.com/kiosks>.
3. All documents referring or relating to rental fees, rental rates, rental charges or extra day rates regarding rentals from Blockbuster Express DVD vending kiosks.
4. All documents referring or relating to “late fees” regarding rentals from Blockbuster Express DVD vending kiosks.
5. All documents referring or relating to any conversations, meetings, minutes, correspondence between You and Blockbuster, Inc. or The New Release, LP regarding rental fee policies.
6. All documents referring or relating to any conversations, meetings, minutes or correspondence among your employees regarding rental fee policies for DVDs rented from Blockbuster Express DVD vending kiosks.
7. All documents, including e-mails, that refer or relate to the comparison of Blockbuster’s Rental Rates, including “Extra Day Rate” to Redbox’s Rental Charges, including “Additional Rental Charge.”
8. All documents referring or relating to the why the “25th day after the initial rental date” was selected as the “Purchase Date.”
9. All studies, analysis, white papers or PowerPoint presentations as to why the “25th day after the initial rental date” was selected as the “Purchase Date.”
10. All documents referring or relating as to why 9:00 p.m. was selected as the end time for the initial rental period and each additional rental period as indicated in the “Vending Machine Rental Terms.”
11. All studies, analysis, white papers or PowerPoint presentations as to why 9:00 p.m. was selected as the end time for the initial rental period and each additional rental period as indicated in the “Vending Machine Rental Terms.”
12. All documents that refer or relate to the sale of DVDs from the Blockbuster Express DVD vending kiosks and the price for same.

13. All documents that refer or relate to how the price for the sale of DVDs from the Blockbuster Express DVD vending kiosks was/is established.

14. All documents that refer or relate to how the “retail price of the item” is determined, as that phrase is used in bullet point number 10 of the “Vending Machine Rental Terms.”

15. All documents that refer or relate to the comparison of the “retail price of the item” as that phrase is used in bullet point number 10 of the “Vending Machine Rental Terms” with the price of the item at the time of the “Purchase Date” as that phrase is used in the fourth bullet point of the “Vending Machine Rental Terms.”

16. All documents that refer or relate to any litigation (individual, class, or purported class) including any demands for arbitration (including class, individual or purported class) against you claiming your Blockbuster Express DVD vending kiosk additional rental fees are in reality late fees.

17. All documents that refer or relate to the characterization of additional rental fees as late fees.

18. All documents that refer or relate to the date when additional rental fees were implemented.

19. All Press Releases, blogs, online reports, newspaper or magazine articles that refer or relate to the reinstatement of Blockbuster “late fees” for Blockbuster Express DVD vending kiosks.

20. All documents that refer or relate to any complaints, whether internally to NCR Corporation, or externally to such groups as the Better Business Bureau or the Federal Trade Commission that the Blockbuster Express DVD vending kiosk additional rental fees are in reality late fees.

21. All documents that refer or relate to any training manuals, instructions, FAQs, regarding the implementation of “Extra Day Rates,” or how to handle any customer complaints that these rates are in reality late fees.

22. All documents that refer or relate to any agreements, contracts or memoranda of understanding between you and Blockbuster, Inc. regarding operation of the Blockbuster Express kiosks, the “Vending Machine Rental Terms,” “Extra Date Rate” or “Purchase Date.”

23. All documents that refer or relate to any agreements, contracts or memoranda of understanding between you and The New Release, LP regarding the operation of the Blockbuster Express kiosks, the “Vending Machine Rental Terms,” “Extra Date Rate” or “Purchase Date.”

IN THE CIRCUIT COURT FOR THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

LAURIE PIECHUR, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

REDBOX AUTOMATED RETAIL, LLC.,

Defendant.

Case No. 09 L 562

Affidavit of Compliance Pursuant to Rule 204(a)(2)

1. I, Jeffrey A. J. Millar am over the age of 21 years and a resident of the State of Missouri. I am one of the attorneys for the plaintiff in the above captioned case.
2. I have personal knowledge of the facts set forth in this Affidavit.
3. I certify that on June 21, 2010, a true and correct copy of the foregoing was served by depositing it in the U.S. Mail, postage pre-paid, addressed to NCR Corporation, CT Corporation System, Registered Agent, 208 South LaSalle Street, Suite 814, Chicago, IL 60604, restricted delivery, certified mail no. 7005 1160 0003 0705 4869, return receipt requested, with a check for a \$20.00 witness fee pursuant to 705 ILCS 35/4.3. No mileage fee was paid because the notice of deposition is set for defendant's corporate headquarters at 1700 South Patterson Blvd, Dayton, OH 45479.


Jeffrey A. J. Millar

In witness whereof I have hereunto subscribed my name and affixed my official seal this 21st day of June, 2010.


Notary Public

My Commission Expires: 1/24/11



CHRISTINA POWERS
My Commission Expires
January 24, 2011
St. Louis County
Commission #07999705

**IN THE CIRCUIT COURT FOR THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS**

LAURIE PIECHUR, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

REDBOX AUTOMATED RETAIL, LLC.,

Defendant.

Case No. 09 L 562

Certificate of Service

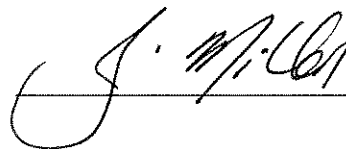
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Belleville, IL 62220
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Chicago, IL 60603-5559
PHONE: (312) 324-8602
FAX: (312) 324-9602

ATTORNEYS FOR DEFENDANT

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.



BUSINESS RECORDS AFFIDAVIT

Before me, the undersigned authority, personally appeared _____,
who being duly sworn, deposed as follow:

1. My name is _____, I am of sound mind, capable of making this affidavit, and personally acquainted with the facts stated herein:

2. I am the custodian of records of _____.

3. Attached hereto are ____ pages of records from the files of _____. These ____ pages of records are kept by _____ in the regular course of business and it was the regular course of business of _____ for an employee or representative of _____ with knowledge of the act, event, condition, opinion, or diagnoses recorded to make the record or to transmit information thereof to be included in such record; and the record was made at or near the time of the act, even, condition, opinion or diagnosis. The records attached hereto are the original or exact duplicates of the original.

Signature

Name

Position

AFFIDAVIT

In witness whereof I have hereunto subscribed my name and affixed my official seal this
_____ day of _____, 2010.

Notary Public

My Commission Expires:

First Community
credit union
 St. Louis, Missouri

EASY CHECK/CASH GIVE/TAKE 06/21/10 11:00AM 11731 69 6904 CAF BR:0069

920220036-00 MILLAR/JEFFREY AJ
 CHECKS RELEASE
 EFF DATE:06/21/10 406

CASH RECVD: .00 TOTL RECVD: .00 CASH RETURNED: .00
 DOC. TYPE:CA
 CHECK RETURNED: 20.00 TO: NCR CORPORATION

SFX BEG BAL TRAN AMOUNT SHARE/PRINC INT/PYMT FEE/LTCG APR/ES NEW BAL
 78 101.55 SHW 20.00 20.00 .00

Car loan rates as low as 3.79% APR. Loan subject to credit approval. See a representative for details or call 636.728.3330, 800.905.7585 or visit www.firstcommunity.com.

Member Copy

THIS CHECK IS VOID WITHOUT A BLUE AND PURPLE INK BACK GROUND PRINTED ON PAPER WHICH CONTAINS A WATERMARK

First Community
credit union
 15715 MANCHESTER RD
 ELLISVILLE, MO 63011

CASHIER'S CHECK

Check Number 0000406

06/21/10

PAY TWENTY AND 00/100 DOLLARS \$20.00

TO THE NCR CORPORATION
 ORDER RE:JEFFREY A. J. MILLAR
 OF

AUTHORIZED SIGNATURE



SIGNATURE AREA HAS A DISAPPEARING BORDER - CHECK BORDER CONTAINS MICROPRINTING

⑈0000406⑈ ⑆281081877⑆ 097700 004⑈