

CASE NO. _____

JEFFERSON DISTRICT COURT
CIVIL DIVISION
JUDGE _____

JANE ZUPETZ
On behalf of herself and a Class
of similarly situated persons

PLAINTIFF

v.

FEDEX OFFICE AND PRINT SERVICES, INC.

DEFENDANT

*** **

CLASS ACTION COMPLAINT AND JURY DEMAND

Plaintiff, Jane Zupetz (“Jane”), alleges as follows against Defendant, FedEx Office and Print Services, Inc. (“FedEx”).

PARTIES and JURISDICTION

- 1. FedEx is a Texas corporation that does substantial business in the Commonwealth of Kentucky and Jefferson County.
- 2. The conduct on which this lawsuit is based occurred in Jefferson County Kentucky and in other counties in Kentucky where Defendant sells overnight delivery services.
- 3. Defendants are subject to the personal jurisdiction of this Court.
- 4. The amount in controversy exceeds the minimal jurisdictional amounts of this Court, and jurisdiction in this Court is otherwise proper.
- 5. Jane is a resident of Jefferson County Kentucky, and venue in this Court is proper.

FACTS AND CLAIMS

- 1. On February 24, 2021, Jane visited the FedEx store at 4402 Shelbyville Road in Louisville.

Presiding Judge: HON. JENNIFER LEIBSON (730064)

COM : 000001 of 000004

2. FedEx represented and promised that it would deliver a letter for Jane “standard overnight” to be delivered the next day, February 25, 2021.

3. Based on FedEx’s promise and representation, Jane agreed to purchase the overnight delivery service and paid FedEx \$39.60 to deliver the letter.

4. Without such promise and representation, Jane would have simply bought a stamp for \$.60 and put the letter in the U.S. mail.

5. The letter was not delivered the next day as promised. In fact, it was delivered 4 days later.

6. Within days, Jane called FedEx to demand a refund, but FedEx refused to give her a refund.

7. FedEx breached its agreement with Jane to deliver her letter overnight (i.e. the next day).

8. Jane has been damaged by that breach in the amount of \$39.00 (the purchase price less a \$.60 stamp).

9. Jane also brings this action as a class action on behalf of all individuals who purchased overnight delivery services from FedEx in Kentucky, where the package or letter was not timely delivered, and where no refund was provided by FedEx.

10. This action has been brought and may properly be maintained as a class action pursuant to Kentucky Rule of Civil Procedure 23 on behalf of Jane and all others similarly situated with the Class, as defined above.

11. Members of the Class are so numerous that their individual joinder is impracticable.

12. The claims of the representative are typical of the claims of the Class.

13. The core questions of law and fact in this case are common to Jane and Class members and include whether FedEx breached its agreements failing to timely make overnight deliveries and whether any defense common to the Class would bar Jane and the Class's claims.

14. Jane will fairly and adequately protect the interests of the Class. Jane has retained counsel with substantial experience in contract and class action claims. Jane and his counsel are committed to vigorously prosecuting this action on behalf of the Class they represent and have the financial resources to do so.

15. Neither Jane nor his counsel have any interest adverse to those of the Class.

16. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. Absent a class action, the vast majority of the Class members would likely find the cost of litigating their claims prohibitive and would have no effective remedy at law. Class treatment of common questions of law and fact is superior to multiple individual actions or piecemeal litigation in that class treatment will conserve the resources of the courts and litigants and promote consistency and efficiency of adjudication.

WHEREFORE, Jane Zupetz respectfully requests that this Court:

- a. Certify the Class, appoint Jane Zupetz as the Class Representative, and appoint the undersigned counsel of record, Joshua T. Rose, as Class Counsel;
- b. Grant trial by jury;
- c. Award compensatory damages to Jane and the Class;
- d. Award pre-judgment and post-judgment interest;
- e. Award costs and attorney's fees; and
- f. Grant any and all other relief the Court or jury deem appropriate.

Respectfully submitted:

/s/ Joshua T. Rose
Joshua T. Rose
Abell Rose LLC
108 S. Madison Ave.
Louisville, KY 40243
(502) 450-5611
jrose@abellroselaw.com

Counsel for Plaintiff

AOC-E-105 Sum Code: CI
Rev. 9-14

Commonwealth of Kentucky
Court of Justice Courts.ky.gov

CR 4.02; Cr Official Form 1



CIVIL SUMMONS

NOT ORIGINAL DOCUMENT

Case #: **21-C-027374**

10/25/21 10:41 AM
88900
Court: **DISTRICT**

County: **JEFFERSON Family /
District Civil**

Plaintiff, **ZUPETZ, JANE VS. FEDEX OFFICE AND PRINT SERVICES, INC**, Defendant

**TO: CT CORPORATION SYSTEM
306 WEST MAIN STREET
SUITE 512
FRANKFORT, KY 40601**

Memo: Related party is FEDEX OFFICE AND PRINT SERVICES, INC

The Commonwealth of Kentucky to Defendant:
FEDEX OFFICE AND PRINT SERVICES, INC

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

Jefferson Circuit Clerk
Date: **9/20/2021**

Proof of Service

This Summons was:

Served by delivering a true copy and the Complaint (or other initiating document)

To: _____

Not Served because: _____

Date: _____, 20____

Served By

Title

Summons ID: @00002037237
DISTRICT: 21-C-027374 Certified Mail
ZUPETZ, JANE VS. FEDEX OFFICE AND PRINT SERVICES, INC



Presiding Judge: HON. JENNIFER LEIBSON (730064)

CI : 000001 of 000001



Commonwealth of Kentucky
David L. Nicholson, Jefferson Circuit Clerk

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10/25/2021 12:20:56 PM
88910

Case #: 21-C-027374

Envelope #: 3874843

Received From: JOSHUA ROSE

Account Of: JOSHUA ROSE

Case Title: ZUPETZ, JANE VS. FEDEX OFFICE AND PRINT **Confirmation Number:** 131973403

SERVICES, INC
Filed On 9/20/2021 3:55:49PM

#	<u>Item Description</u>	<u>Amount</u>
1	Access To Justice Fee	\$10.00
2	Civil Filing Fee	\$40.00
3	Money Collected For Others(Court Tech. Fee)	\$20.00
4	Money Collected For Others(Attorney Tax Fee)	\$2.50
5	Library Fee	\$3.00
6	Charges For Services(Jury Demand / 6)	\$40.00
7	Money Collected For Others(Postage)	\$13.33
8	Charges For Services(Copy - Photocopy)	\$0.60
TOTAL:		\$129.43



NOT ORIGINAL DOCUMENT

10/25/2021 12:21:13 PM

88910

October 4, 2021

Dear ConnectSuite Inc :

The following is in response to your request for proof of delivery on your item with the tracking number: 9236 0901 9403 8349 8015 26.

Item Details

Status:	Delivered
Status Date / Time:	September 24, 2021, 7:52 am
Location:	FRANKFORT, KY 40601
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail Restricted Delivery Return Receipt Electronic
Recipient Name:	CT CORPORATION SYSTEM

Shipment Details

Weight:	1.1oz
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Recipient Signature

Note: There is no delivery signature on file for this item.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

NO. 21-C-027374

JEFFERSON DISTRICT COURT
DIVISION TWO (2)
HON. JENNIFER LEIBSON
ELECTRONICALLY FILED

JANE ZUPETZ

PLAINTIFF

v.

ENTRY OF APPEARANCE

FEDEX OFFICE AND PRINT SERVICES, INC.

DEFENDANT

* * * * *

Please take notice that R. Kenyon Meyer of Dinsmore & Shohl LLP hereby enters his appearance as counsel of record in the above-styled action on behalf of Defendant, FedEx Office and Print Services, Inc. The undersigned counsel respectfully requests that he be included on the distribution list for all orders, pleadings, and other documentation pertaining to this matter.

Dated: October 14, 2021

Respectfully submitted,

DINSMORE & SHOHL LLP

/s/ R. Kenyon Meyer

R. Kenyon Meyer

101 South Fifth Street, Suite 2500

Louisville, KY 40202

E-mail: kenyon.meyer@dinsmore.com

Phone: (502) 540-2325

Counsel for Defendant, FedEx Office and Print Services, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of October, 2021, a true and correct copy of the foregoing was electronically filed and delivered through the Kentucky Court of Justice eFiling system to:

Joshua T. Rose
Abell Rose LLC
108 S. Madison Ave
Louisville, KY 40243
(502) 450-5611
jrose@abellroselaw.com
Counsel for Plaintiff

/s/ R. Kenyon Meyer
*Counsel for Defendant, FedEx Office and Print
Services, Inc.*

NO. 21-C-027374

JEFFERSON DISTRICT COURT
DIVISION TWO (2)
HON. JENNIFER LEIBSON
ELECTRONICALLY FILED

JANE ZUPETZ

PLAINTIFF

v. **MOTION FOR EXTENSION TO RESPOND TO COMPLAINT**

FEDEX OFFICE AND PRINT SERVICES, INC.

DEFENDANT

* * * * *

NOTICE

PLEASE TAKE NOTICE that the undersigned will on Friday, October 22, 2021,
at 11:30 AM make the following motion and tender the attached order.

MOTION

Defendant, FedEx Office and Print Services, Inc., by counsel, hereby requests an
extension until October 25, 2021 to respond to Plaintiff's Complaint. Counsel for
Defendant has contacted Plaintiff's counsel, and Plaintiff has no objection to this request.

Respectfully submitted,

DINSMORE & SHOHL LLP

/s/ R. Kenyon Meyer

R. Kenyon Meyer

101 South Fifth Street, Suite 2500

Louisville, KY 40202

E-mail: kenyon.meyer@dinsmore.com

Phone: (502) 540-2325

*Counsel for Defendant, FedEx Office and Print
Services, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of October, 2021, a true and correct copy of the foregoing was electronically filed and delivered through the Kentucky Court of Justice eFiling system to:

Joshua T. Rose
Abell Rose LLC
108 S. Madison Ave
Louisville, KY 40243
(502) 450-5611
jrose@abellroselaw.com
Counsel for Plaintiff

/s/ R. Kenyon Meyer
*Counsel for Defendant, FedEx Office and Print
Services, Inc.*

NO. 21-C-027374

JEFFERSON DISTRICT COURT
DIVISION TWO (2)
HON. JENNIFER LEIBSON
ELECTRONICALLY FILED

JANE ZUPETZ

PLAINTIFF

v.

ORDER

FEDEX OFFICE AND PRINT SERVICES, INC.

DEFENDANT

* * * * *

Upon motion of the Defendant, the time to respond to the complaint is hereby extended to October 25, 2021.

Date: _____

HON. JENNIFER LEIBSON
Judge, Jefferson District Court, Division Two (2)

Submitted by:

/s/ R. Kenyon Meyer
R. Kenyon Meyer
DINSMORE & SHOHL LLP
101 South Fifth Street, Suite 2500
Louisville, KY 40202
E-mail: kenyon.meyer@dinsmore.com
Phone: (502) 540-2325
Counsel for Defendant, FedEx Office and Print Services, Inc.