

AO 440 (Rev. 06/12) Summons in a Civil Action

# UNITED STATES DISTRICT COURT

for the

Western District of Michigan

JEFFREY RYAN FENTON

*Plaintiff(s)*

v.

VIRGINIA LEE STORY et al.,

*Defendant(s)*

**FILED - LN**

October 21, 2024 4:17 PM

CLERK OF COURT

U.S. DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

BY: plw / SCANNED BY: 10/21/24

Civil Action No. 1:23-cv-1097

## SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* James Michael Hivner  
8019 Sara Jane Lane  
Bartlett, TN 38133

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jeffrey Fenton  
17195 Silver Parkway #150  
Fenton, MI 48430

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

AUG 19 2024

Date: 5/23/2024



*Signature of Clerk or Deputy Clerk*

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 1:23-cv-1097

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* JAMES MICHAEL HIVNER  
 was received by me on *(date)* August 21, 2024.

 Other *(specify)*:

Service of defendant JAMES MICHAEL HIVNER was initiated pursuant to F.R.Civ.P. 4(e)(1) and Mich. Ct. R. 2.105(A) by delivering to him the lawsuit service package as itemized in ECF 69 and 69-1 of this lawsuit, via certified U.S. mail with tracking number 70203160000230014834, return receipt requested, with delivery restricted to the addressee. This package was successfully delivered to defendant Hivner's residence on August 27, 2024, at 1:43 PM. See the attached receipt copies from the USPS.

Despite executing service with *restricted delivery* exactly as outlined in Mich. Ct. R. 2.105(A), somehow *every* individual bar defendant in this lawsuit managed to defeat, or persuade their mail carrier(s) to help defeat, the successful *confirmation of service* as intended in this rule, by either interfering with return of the "*return receipt requested*", returning it blank and unsigned devoid of any delivery information, or returning it signed by someone other than the named defendant to whom the lawsuit service was clearly addressed, despite delivery being restricted to that specific individual.

In this instance, the return receipt was never mailed back from Tennessee.

Brian Joseph Gallagher of Lennon Miller PLC made an appearance in this matter on behalf of defendant Hivner on September 17. Since the definitive date and time of service was defeated by some failure to mail back the return receipt, defendant Hivner is *deemed served* as of the date of *first appearance* in this matter, that being on September 17, 2024, though he likely received service weeks earlier.

“(3) An action shall not be dismissed for improper service of process unless the service failed to inform the defendant of the action within the time provided in these rules for service.” Rule 2.105(K)(3) - Process; Manner of Service, Mich. Ct. R. 2.105(K)(3).

In the spirit of Mich. Ct. R. 2.105(K)(3) above, the objective here was to err on the side of caution while completing service since clearly the defendant must have been informed about this action prior to the *date of first appearance* of his counsel evidenced in the record.

I declare under penalty of perjury that this information is true.

Date: 10/19/2024Marsha Ann Fenton

Server's signature

Marsha Ann Fenton

Printed name and title

17195 Silver Pkwy, #150, Fenton, MI 48430-3426

Server's address

DEFENDANT: JAMES MICHAEL HIVNER

LAWSUIT DELIVERED: 8/27/2024 (DEEMED SERVED: 9/17/2024)



**UNITED STATES  
POSTAL SERVICE.**

FENTON  
210 S LEROY ST  
FENTON, MI 48430-9998  
(800)275-8777

08/24/2024 02:06 PM

Product	Qty	Unit Price	Price
Priority Mail® Memphis, TN 38133 Weight: 3 lb 10.80 oz Expected Delivery Date Tue 08/27/2024 Insurance Up to \$100.00 included Restricted Del Recipient name <b>JAMES M HIVNER</b> Tracking #: → 70203160000230014834 Return Receipt Tracking #: 9590 9402 8627 3244 0683 81	1	\$16.95	\$16.95
		\$0.00	\$0.00
		\$12.75	\$12.75
		\$4.10	\$4.10
<b>Total</b>			<b>\$33.80</b>

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Grand Total: \$200.20

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Credit Card Remit \$200.20  
 Card Name: VISA  
 Account #: XXXXXXXXXXXX8359  
 Approval #: 314260  
 Transaction #: 188  
 AID: A0000000031010 Chip  
 AL: VISA CREDIT  
 PIN: Not Required

---

UFN: 253200-0431  
 Receipt #: 840-54930020-3-6269723-1  
 Clerk: 05

**U.S. Postal Service™  
CERTIFIED MAIL® RECEIPT**  
*Domestic Mail Only*

For delivery information, visit our website at [www.usps.com](http://www.usps.com)®.

Memphis, TN 38133

**OFFICIAL USE**

Certified Mail Fee	\$4.10
Extra Services & Fees (check box, add fee as appropriate)	
<input checked="" type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$12.75
<input checked="" type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
Postage	\$16.95
Total Postage and Fees	\$33.80

0431  


JAMES MICHAEL HIVNER  
8019 SARA JANE LN  
BARTLETT, TN 38133-2814

POST OFFICE 38007, APRIL 2010 FPM 7630920003047 SEE REVERSE FOR INSTRUCTIONS

This USPS Return Receipt  
Mysteriously Disappeared  
It was Never Returned After  
The Successful Delivery

Help



# Product Tracking & Reporting

Home

Search

Reports

Manual Entry

Rates/  
Commitments

PTR / EDW

Customer  
Information

October 18, 2024


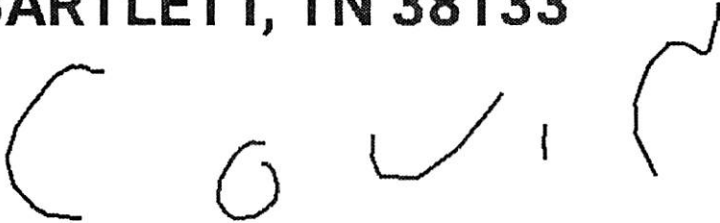
## USPS Tracking Intranet

### Delivery Signature and Address

Tracking Number: 7020 3160 0002 3001 4834

This item was delivered on 08/27/2024 at 13:43:00

[< Return to Tracking Number View](#)

Signature	
Address	<p><b>8019 SARA JANE LN, BARTLETT, TN 38133</b></p> 

Enter up to 35 items separated by commas.

Select Search Type:

Quick Search

Product Tracking & Reporting, All Rights Reserved  
Version: 24.4.3-de6c5246

This page is the U.S. Postal Service's internal delivery confirmation with "signature image" from the mail carrier's electronic keypad, signed by the recipient at the time of delivery.

This page was provided by Postmaster Danielle Weisenstein, from the Linden Post Office in Genessee County Michigan, who researched this parcel and provided this confirmation.

ALERT: TROPICAL STORM FRANCINE, FLOODING, AND SEVERE WEATHER IN THE SOUTHERN U.S. M...

# USPS Tracking®

FAQs >

**COMPLETED**

Tracking Number:

Remove X

**70203160000230014834**

Copy Add to Informed Delivery (<https://informedelivery.usps.com/>)

## Latest Update

Your item was delivered to an individual at the address at 1:43 pm on August 27, 2024 in MEMPHIS, TN 38133.

### Get More Out of USPS Tracking:

USPS Tracking Plus®

#### Delivered

Delivered, Left with Individual

MEMPHIS, TN 38133  
August 27, 2024, 1:43 pm

#### Out for Delivery

MEMPHIS, TN 38133  
August 27, 2024, 6:25 am

#### Arrived at Post Office

MEMPHIS, TN 38134  
August 27, 2024, 6:14 am

#### Arrived at USPS Regional Destination Facility

MEMPHIS TN DISTRIBUTION CENTER  
August 26, 2024, 2:33 pm

#### In Transit to Next Facility

August 25, 2024

#### Arrived at USPS Regional Facility

PONTIAC MI DISTRIBUTION CENTER  
August 24, 2024, 6:16 pm

#### Departed USPS Facility

Feedback

DEFENDANT: JAMES MICHAEL HIVNER

LAWSUIT DELIVERED: 8/27/2024 (DEEMED SERVED: 9/17/2024)

FLINT, MI 48502  
August 24, 2024, 5:16 pm

**Departed USPS Facility**

FENTON, MI 48430  
August 24, 2024, 3:20 pm

**Departed Post Office**

FENTON, MI 48430  
August 24, 2024, 3:14 pm

**USPS in possession of item**

FENTON, MI 48430  
August 24, 2024, 2:01 pm

Hide Tracking History

[What Do USPS Tracking Statuses Mean? \(https://faq.usps.com/s/article/Where-is-my-package\)](https://faq.usps.com/s/article/Where-is-my-package)

Text & Email Updates



USPS Tracking Plus®



Product Information



Feedback

**Postal Product:** Certified Mail Restricted Delivery  
Priority Mail® Up to \$100 insurance included. Restrictions Apply ⓘ

See tracking for related item:  
9590940286273244068381 (/go/  
TrackConfirmAction?  
tLabels=9590940286273244068381)

See Less ^

Track Another Package

Enter tracking or barcode numbers

## Need More Help?

Contact USPS Tracking support for further assistance.

# USPS Tracking®

FAQs >

**This is the tracking for the Return Receipt. This shows that the Return Receipt was purchased, but it was never mailed back from Tennessee.**

Remove X

Tracking Number:

## 9590940286273244068381

Copy

Add to Informed Delivery (<https://informedelivery.usps.com/>)

### Latest Update

The U.S. Postal Service has received electronic notification on August 24, 2024 at 2:01 pm that you have associated a return receipt to your item.

Get More Out of USPS Tracking:

USPS Tracking Plus®

Pre-Shipment

● Return Receipt Associated

August 24, 2024, 2:01 pm

Feedback

[What Do USPS Tracking Statuses Mean?](https://faq.usps.com/s/article/Where-is-my-package) (<https://faq.usps.com/s/article/Where-is-my-package>)

Text & Email Updates



USPS Tracking Plus®



Product Information



Postal

Product:

USPS Ground Advantage™

Features:

Return Receipt

USPS Tracking®

See tracking for related item: [70203160000230014834 \(/go/TrackConfirmAction?tLabels=70203160000230014834\)](#)