

**IN THE SUPREME COURT OF OHIO**

KEVIN O'BRIEN &  
ASSOCIATES CO., L.P.A.  
995 South High St.  
Columbus, OH 43206

Case No.

**13-0156**

and

COLUMBUS CHECKCASHERS, INC.  
P.O. Box 374  
Randolph, MA 02368

and

CHECKS 2 CASH, INC.  
P.O. Box 12148  
Columbus, OH 43212

Relators

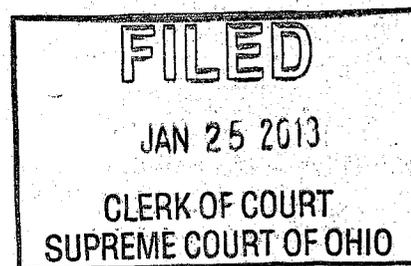
v.

HON. JUDGE DAVID B. TYACK  
Franklin County Municipal Court  
375 South High Street  
Columbus, Ohio 43215

and

LORI M. TYACK  
Clerk Franklin County Municipal Court  
375 South High Street  
Columbus, Ohio 43215

Respondents.



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**COMPLAINT FOR WRIT OF MANDAMUS**

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Kevin O'Brien (0028108)  
Kevin O'Brien & Assoc. Co. L.P.A.  
995 South High St.  
Columbus, OH 43206  
Ph: 614-224-3080  
Fax: 614-224-4870  
Kevin@ohiolaw1.com  
Attorney for Relators

For their Complaint, Realtors Kevin O'Brien & Associates Co., L.P.A., Columbus Checkcashers, Inc. and Checks 2 Cash, Inc. state as follows:

### **COMMON ALLEGATIONS**

1. Relator, Kevin O'Brien & Associates Co., L.P.A. (hereinafter "O'Brien"), is a legal professional association (professional corp.), organized and existing under the laws of the State of Ohio, with its primary place of business located at 995 South High St., Columbus, OH 43206.

2. Relator, Columbus Checkcashers, Inc. (hereinafter "CCC"), is a Corporation, organized and existing under the laws of the State of Ohio, with its primary place of business located at 781 Tremont St., Boston, MA 02118.

3. Relator, Checks 2 Cash (hereinafter "C2C"), is an Ohio Corporation organized and existing under the laws of the State of Ohio, with its primary place of business located at 5620 Hall Rd., Columbus, OH 43228.

4. Respondent, the Honorable Judge Tyack (hereinafter "Judge Tyack"), is a duly elected judge of the Franklin County Municipal Court.

5. Respondent, Clerk Lori Tyack (hereinafter "Clerk Tyack"), is the duly elected Clerk of the Franklin County Municipal Court.

6. O'Brien is a law firm and represents Checkcashers and Checks 2 Cash in the collection of two bad checks in the Franklin County Municipal Court.

### **COUNT ONE: THE COLUMBUS CHECKCASHERS MATTER**

7. Relators incorporate all previous paragraphs as though fully rewritten.

8. On or about April 30, 2008, O'Brien obtained a default judgment in the amount of \$350.00 plus interest and court costs on the behalf of CCC against Toia Proctor, in Franklin County Municipal Court Case Number 2008 CVI 11684. (Exhibit 1)

9. In accordance with Franklin County Municipal Court procedure, the case was never assigned to any judge because the defendant failed to file an appearance, motion or answer.

10. On or about June 9, 2008, O'Brien filed a wage garnishment on behalf of CCC and against Toia Proctor to collect the judgment. (Exhibit 2)

11. The garnishment was successful and from June 27, 2008 to September 15, 2008 monies due on the judgment were garnished from Toia Proctor's wages and processed by Clerk Tyack. (Exhibit 3)

12. On or about June 16, 2008, Clerk Tyack mistakenly disbursed \$81.55 of the garnished funds to William Yost, Esq. (hereinafter "Yost") of the law firm Carlisle, Patchen & Murphy due to an administrative error.

13. Yost was garnishing a judgment debtor in the case American Kidney Stone Management v. Judy Harris, 2007 CVF 53334. Judy Harris was employed with the same company as Toia Proctor, Zaner-Bloser, Inc. The company sent one check containing the funds garnished from both judgment debtors. Clerk Tyack mistakenly disbursed the entire amount to Yost instead of distributing it between O'Brien and Yost.

14. Upon information and belief, Attorney Yost applied the funds to his case against Judy Harris and disbursed the funds to himself and his client, American Kidney Stone Management.

15. On or about October 29, 2009, an employee on O'Brien's staff contacted an employee on Yost's staff and requested the return of the \$81.55.

16. Yost's employee became angry and verbally abusive towards O'Brien's employee and refused to return the funds.

17. On or about October 29, 2009, O'Brien contacted Yost and demanded the return of the \$81.55. (Exhibit 4)

18. Attorney Yost became angry and verbally abusive towards O'Brien and refused to return the funds.

19. On or about February 3, 2010, the matter of the incorrectly disbursed funds came before the Honorable Judge Andrea C. Peebles of the Franklin County Municipal Court for a hearing.

20. A representative of Clerk Tyack's office was called as a witness and gave testimony regarding the incorrectly disbursed funds.

21. Following that hearing Judge Peebles issued an Entry which ordered Yost to return the funds to O'Brien. (Exhibit 5)

22. This Entry was properly filed with the Clerk on February 3, 2010.

23. Yost did not comply with the Court's Entry and did not return the funds.

24. Upon information and belief, William Yost wrote a letter to Judge Tyack, the exact contents of which are unknown and which is not in the Court file. In this letter Yost asserted that he or his client had a legal right vis-a-vis the incorrectly disbursed funds, which Relators submit is nonsense.

25. Subsequently, without complying with the basic tenets of procedural due process, Judge Tyack, on his own authority and without notice to O'Brien or CCC or

conducting a hearing, improperly set aside Judge Peoples' order of February 3, 2010, and had Clerk Tyack strike Judge People's February 3, 2010, Entry from the court docket, which she did.

26. Judge Tyack had his bailiff call O'Brien and orally ordered O'Brien to appear before him for a "show cause" hearing which O'Brien initially believed was against attorney Yost. No written order to appear was ever served on O'Brien.

27. O'Brien complied and appeared before Judge Tyack at which time Judge Tyack threatened to hold O'Brien in contempt of court.

28. O'Brien demanded that a court reporter be present. Judge Tyack dismissed the hearing, improperly removed the Order to Appear from the file and apparently disposed of it. The Order was either never docketed or docketed and then stricken from the docket.

29. Over the past three years, O'Brien has regularly spoken to Judge Tyack and his bailiff and has been repeatedly assured that the matter of the wrongly disbursed funds would be resolved.

30. On or about August 17, 2012, Judge Tyack, on his own authority, improperly ordered Clerk Tyack to pay O'Brien the wrongly disbursed funds, apparently out of taxpayer money. By law, this can only be accomplished by the passage of a city ordinance. (Exhibit 6)

31. The August 17, 2012 Entry was not served on O'Brien.

32. Clerk Tyack did not pay the funds and does not have the funds as they have never been recovered from Attorney Yost.

33. To date, the matter has not been rectified and Attorney Yost has not returned CCC's money to the Clerk.

#### **COUNT TWO: THE CHECKS 2 CASH MATTER**

34. Relators incorporate all previous paragraphs as though fully rewritten.

35. On or about October 8, 2004, C2C obtained a default judgment in the Franklin County Municipal Court in the amount of \$600.00 against Dawn C. Reese, in Franklin County Municipal Court Case Number 2004 CVI 035812. (Exhibit 7)

36. In accordance with Franklin County Municipal Court procedure, the case was never assigned to any judge because the defendant failed to file an appearance, motion or answer.

37. At the time the judgment was taken, C2C was represented by Jonathan Holfinger, Esq. (hereinafter "Holfinger") of the Law firm AuCoin, Dupont, Hetterscheidt & Younkin.

38. On or about March 9, 2005, C2C terminated its representation by Holfinger and AuCoin, Dupont, Hetterscheidt & Younkin and hired O'Brien to collect the judgment.

39. On or About November 4, 2005, O'Brien filed a wage garnishment on the behalf of C2C and against Dawn C. Reese to collect the judgment. (Exhibit 8)

40. The garnishment was successful and from November 28, 2005 to January 25, 2006 the full amount due on the judgment was garnished from Dawn Reese's wages.

41. Clerk Tyack failed to take notice that O'Brien had substituted as counsel for C2C and mistakenly disbursed all of the funds to Holfinger. (Exhibit 9)

42. On or about May 1, 2007, O'Brien sent a letter to Holfinger and requested the return of the funds. (Exhibit 10)

43. On or about May 16, 2007, Holfinger contacted O'Brien and refused to return the funds.

44. Holfinger kept the funds for himself and did not remit any funds to C2C or O'Brien.

45. On or about February 3, 2010, the matter of the incorrectly disbursed funds came before the Honorable Judge Andrea C. Peebles of the Franklin County Municipal Court for a hearing.

46. A representative of Clerk Tyack's office, was called as a witness and gave testimony regarding the incorrectly disbursed funds.

47. Following that hearing Judge Peebles issued an Entry which ordered Holfinger to return the funds to O'Brien. (Exhibit 11)

48. This Entry was properly filed with the Clerk on February 3, 2010.

49. Holfinger did not comply with the Entry and did not return the funds.

50. Subsequently, without complying with the basic tenets of procedural due process, Judge Tyack, on his own authority and without notice to O'Brien or C2C or any hearing, improperly set aside Judge Peebles' order of February 3, 2010 and had Clerk Tyack strike Judge Peebles' February 3, 2010 Entry from the court docket, which she did.

51. Judge Tyack had his bailiff call O'Brien and orally ordered O'Brien to appear before him at a "show cause" hearing, which O'Brien initially believed was against attorney Holfinger. No written order to appear was ever served on O'Brien.

52. O'Brien complied and appeared before Judge Tyack at which time Judge Tyack threatened to hold O'Brien in contempt of court.

53. O'Brien demanded that a court reporter be present. Judge Tyack dismissed the hearing, improperly removed the Order to Appear from the file and apparently disposed of it. The Order was either never docketed or docketed and then stricken from the docket.

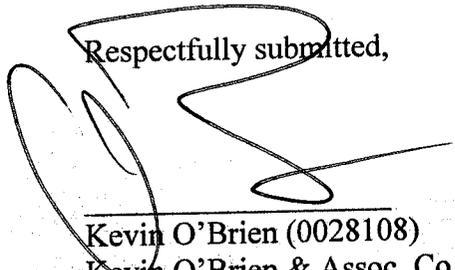
54. Over the past three years, O'Brien has regularly spoken to Judge Tyack and his bailiff and has been repeatedly assured that the matter of the wrongly disbursed funds would be resolved.

55. To date, the matter has not been rectified and Attorney Holfinger has not returned CCC's money to the Clerk.

**WHEREFORE**, the relators pray for a Writ of Mandamus ordering:

- A. Judge Tyack to order Holfinger and Yost to return the funds within 14 days of the service of the court order,
- B. That Clerk Tyack be directed to promptly process those funds, correct the court records and remit payment to Relators,
- C. That Clerk Tyack be required to develop procedures and methods to avoid distributing garnishment monies to the incorrect parties and to recover said monies in the event of an error
- D. A judgment awarding attorney's fees and costs of court expended herein.
- E. For such other further and just relief as this Court finds appropriate.

Respectfully submitted,



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Kevin O'Brien (0028108)

Kevin O'Brien & Assoc. Co. L.P.A.

995 South High St.

Columbus, OH 43206

Ph: 614-224-3080

Fax: 614-224-4870

Kevin@ohiolaw1.com

Attorney for Relators

AFFIDAVIT OF KEVIN O'BRIEN, ESQ.

County of Franklin }  
State of Ohio } ss

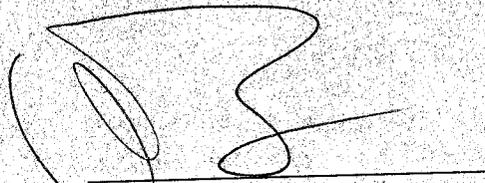
Now comes Kevin O'Brien, Esq., affiant, herein, and being first duly sworn, deposes and states as follows:

1. That I make this affidavit of my own personal knowledge.

2. That I am the owner of Relator, Kevin O'Brien & Associates Co. L.P.A., a party to this action and the attorney for Relators Columbus Checkcashers, Inc. and Checks 2 Cash, Inc. I have read the foregoing complaint for writ of mandamus and have personal knowledge of the averments of fact set forth therein. To the best of my knowledge, the averments of fact are true.

3. I declare under penalty of perjury that the foregoing is true and correct.

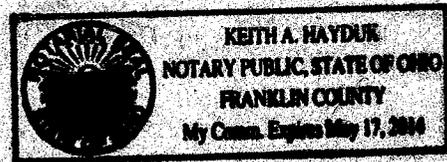
FURTHER, AFFIANT SAYETH NAUGHT.

  
Kevin O'Brien, Esq.

Sworn to and subscribed in my presence this the 25 day of JANUARY, 2013.

  
Notary Public

My commission expires 05/17/2014



FRANKLIN COUNTY MUNICIPAL COURT  
COLUMBUS, OHIO

Col's Check  
Plaintiff(s)

v.  
J. Proctor  
Defendant(s)

Case No. 08 CVI 116841

2008 APR 23 9:15  
FILED

JUDGMENT ENTRY

In accordance with Civil Rule 53, the court hereby adopts the Magistrate's Decision filed herein and enters judgment as set forth below.

Judgment for the plaintiff in the amount of \$ 350.00, with contract interest of 5% per month from the date of the loan 5-15-07 on the loan amount of \$ 300.00 and statutory interest of 8% per annum from the date of judgment on the remaining \$ 50.00, plus court costs.

Judgment for defendant on counterclaim in the amount of \$ \_\_\_\_\_, plus court costs and interest at the rate of \_\_\_\_\_% per annum from this date.

Judgment for defendant on the complaint; case dismissed with prejudice at plaintiff's costs.

Other: \_\_\_\_\_

The Magistrate's Decision is modified and judgment rendered as follows: \_\_\_\_\_

Pursuant to Rule(s) 53(E) and 58 of the Ohio Rules of Civil Procedure, the court hereby directs the Clerk of the Franklin County Municipal Court to serve upon all parties notice of this judgment and its date of entry upon the journal.

APR 25 2008  
Date

David [Signature]  
JUDGE DAVID [Signature]



**ATTACHMENT NOT SCANNED**

**SMALL CLAIM CASE SUMMARY**

**COLUMBUS CHECK CASHERS INC**  
Plaintiff

Case No. 2008 CVI 011684

Vs

Status: CLOSED

**PROCTOR, TOIA**  
Defendant

Filed: 03/13/2008

1	<b>Name</b>	COLUMBUS CHECK CASHERS INC	<b>Type</b>	PLAINTIFF
	<b>Address</b>	PO BOX 374	<b>State/Zip</b>	MA/02368
	<b>City</b>	RANDOLPH		
2	<b>Name</b>	PROCTOR, TOIA	<b>Type</b>	DEFENDANT
	<b>Address</b>	3766 DUNLANE CT	<b>State/Zip</b>	OH/43228
	<b>City</b>	COLUMBUS		

**Name:** WOLFE, CARRIE DOPPES      **Party Type:** PLAINTIFF - PRIMARY ATTORNEY  
**Address:** 995 S HIGH ST      **City/St/Zip:** COLUMBUS, OH 43206

<u>Status</u>	<u>Status Date</u>	<u>Disposition Code</u>	<u>Disposition Date</u>
CLOSED	03/13/2008	JUDGMENT FOR PLAINTIFF	04/30/2008

<u>Event</u>	<u>Date</u>	<u>Start</u>	<u>End</u>	<u>Judge</u>	<u>Ct.Rm.</u>	<u>Result</u>
SMALL CLAIMS HEARING	04/24/2008	02:00 PM	02:25 PM	KIMBALL, DENNIS	11B	JUDGMENT FOR PLAINTIFF

<u>Docket Application</u>	<u>Amount Owed</u>	<u>Amount Paid</u>	<u>Amount Dismissed</u>	<u>Balance</u>
PAYMENT	\$645.96	\$645.96	\$0.00	\$0.00
DEPOSIT	\$645.96	\$645.96	\$0.00	\$0.00
COST	\$156.00	\$156.00	\$0.00	\$0.00
<b>TOTAL:</b>	<b>\$801.96</b>	<b>\$801.96</b>	<b>\$0.00</b>	<b>\$0.00</b>

<u>Created</u>	<u>Payee Name</u>	<u>Description</u>	<u>Account</u>	<u>Check</u>	<u>Amount</u>
08/12/2008	CARRIE DOPPES WOLFE	Case: 2008 CVI 011684 DISBURSEMENT OF A CIVIL WAGE	65021	187559	\$229.58
09/15/2008	CARRIE DOPPES WOLFE	Case: 2008 CVI 011684 DISBURSEMENT OF A CIVIL WAGE	65021	188816	\$208.19
08/19/2008	CARRIE DOPPES	Case: 2008 CVI 011684 DISBURSEMENT OF A CIVIL WAGE	65021	187866	\$208.19



WOLFE

<u>Number</u>	<u>Cash Book</u>	<u>Received From</u>	<u>Status</u>	<u>Date</u>	<u>Total Amount</u>
8645351	CIVIL	WOLFE, CARRIE DOPPE	FINAL	03/13/2008	\$71.00
8693154	CIVIL	WOLFE, CARRIE DOPPE	FINAL	06/09/2008	\$85.00
8726320	CIVIL	ZANER-BLOSER INC	FINAL	07/31/2008	\$208.19
8720981	CIVIL	ZANER BLOSSER INC	FINAL	07/24/2008	\$229.58
8742397	CIVIL	ZANER BLOSER	FINAL	08/27/2008	\$208.19

<u>Docket Date</u>	<u>Docket Text (Expand All - Collapse All)</u>	<u>Amount</u>	<u>Balance</u>
08/17/2012	ENTRY FILED		
	JUDGMENT ENTRY FILED JDG TYACK		
06/04/2009	AFFIDAVIT OF CURRENT BALANCE GARNISHMENT ORDER		
	AFFIDAVIT OF CURRENT BALANCE DUE ON GARNISHMENT ORDER		
09/15/2008	DISBURSEMENT OF A CIVIL WAGE GARNISHMENT	\$208.19	\$0.00
08/27/2008	DEPOSIT OF CIVIL WAGE GARNISHMENT	\$208.19	\$0.00
	ZANER BLOSER Receipt: 8742397 Date: 08/27/2008		
08/19/2008	DISBURSEMENT OF A CIVIL WAGE GARNISHMENT	\$208.19	\$0.00
08/12/2008	DISBURSEMENT OF A CIVIL WAGE GARNISHMENT	\$229.58	\$0.00
07/31/2008	DEPOSIT OF CIVIL WAGE GARNISHMENT	\$208.19	\$0.00
	WOLFE Receipt: 8726320 Date: 07/31/2008		
07/24/2008	DEPOSIT OF CIVIL WAGE GARNISHMENT	\$229.58	\$0.00
	WOLFE Receipt: 8720981 Date: 07/24/2008		
06/27/2008	EMPLOYMENT OF JUDGMENT DEBTOR VERIFIED BY - ZANER BLOSER		
06/20/2008	CERTIFIED MAIL		

Method : CERTIFIED MAIL  
 Issued : 06/16/2008  
 Service : WAGE GARN BY CERT MAIL  
 Served : 06/20/2008  
 Return : 06/20/2008  
 On : ZANER BLOSER  
 Signed By : TONY JOHNSON

Reason : SUCCESSFUL CERTIFIED MAIL  
 Comment :

Tracking # : C000561190

06/16/2008 CERTIFIED MAIL

Issue Date: 06/16/2008  
 Service: WAGE GARN BY CERT MAIL  
 Method: CERTIFIED MAIL

Cost Per: \$ 0.00

ZANER BLOSER  
ATTN: PAYROLL  
PO BOX 18360  
COLUMBUS, OH 43218  
Tracking No: C000561190

06/16/2008	ORDER AND NOTICE OF WAGES ISSUED BY CERTIFIED MAIL		
06/09/2008	WAGE GARNISHMENT FILED Receipt: 8693154 Date: 06/09/2008	\$85.00	\$0.00
04/30/2008	NOTICE OF COURT ORDER ISSUED		

04/30/2008 NOTICE OF COURT ORDER  
Sent on: 04/30/2008 11:25:06  
JUDGMENT INFORMATION:

Judgment Amount: 350.00  
Judgment Total: 350.00

Terms: 5% PER MONTH FROM 05-15-07 ON THE LOAN AMT OF \$300.00 AND STATUTORY INTEREST OF 8% PER ANNUM FROM THE DATE OF JMT ON THE REMAINING \$50.00 AND COST

Judgment Type: SMALL CLAIMS JUDGMENT  
Judge: TYACK, DAVID B  
Judgment Date: 04/30/2008  
Referee: KIMBALL, DENNIS R  
Recommendation Date: 04/30/2008

Judgment For: COLUMBUS CHECK CASHERS INC - Plaintiff

Judgment Against: PROCTOR, TOIA - DEFENDANT

Judgment Balance: 350.00  
Case Total: 350.00  
Case Balance: 350.00

04/30/2008 JUDGMENT FOR PLAINTIFF

The following event: SMALL CLAIMS HEARING scheduled for 04/24/2008 at 2:00 pm has been resulted as follows:

04/03/2008 Result: JUDGMENT FOR PLAINTIFF  
Judge: KIMBALL, DENNIS R Location: 11B LOCATED ON THE 11TH FLOOR  
POSTAL FORWARDING NOTICE FORM 3547 FILED  
SHOWING ADDRESS FOR THE ADDRESSEE AS

5907 MIDNIGHT LN GALLOWAY OH 43119

03/25/2008

CERTIFIED MAIL

Method : CERTIFIED MAIL  
Issued : 03/18/2008  
Service : ISSUE SVC FOR SMALL CLAIMS  
Served : 03/21/2008  
Return : 03/25/2008  
On : PROCTOR, TOIA  
Signed By : DAMON WILLIAMS

Reason : SUCCESSFUL CERTIFIED MAIL  
Comment :

Tracking # : C000542172

03/18/2008

CERTIFIED MAIL

Issue Date: 03/18/2008  
Service: ISSUE SVC FOR SMALL CLAIMS  
Method: CERTIFIED MAIL  
Cost Per: \$ 0.00

PROCTOR, TOIA  
3766 DUNLANE CT  
COLUMBUS, OH 43228  
Tracking No: C000542172

03/18/2008

SUMMONS ISSUED WITH COPY OF COMPLAINT

03/17/2008

SMALL CLAIMS MAGISTRATE HEARING SCHEDULED

FOR 04/24/2008 TIME: 2:00 PM  
Event: SMALL CLAIMS HEARING  
Date: 04/24/2008 Time: 2:00 pm  
Judge: KIMBALL, DENNIS R Location: 11B LOCATED ON THE 11TH FLOOR

03/13/2008

Result: JUDGMENT FOR PLAINTIFF  
SMALL CLAIMS COMPLAINT FILED  
Receipt: 8645351 Date: 03/13/2008

\$71.00 \$0.00

# Kevin O'Brien & Associates Co., L.P.A.

ATTORNEYS AT LAW

KEVIN J. O'BRIEN  
CARRIE DOPPE WOLFE

OF COUNSEL  
ROBERT BARDWELL

995 SOUTH HIGH STREET  
COLUMBUS, OHIO 43206  
TELEPHONE (614) 445-6757  
FAX (614) 224-4870

OF COUNSEL

THOMAS E. MARTELLO, JR.  
COLUMBUS, OHIO

LEISA BOLEY HELLWARTH  
CELINA, OHIO

KIM M. HALLIBURTON-COHEN  
UPPER ARLINGTON, OHIO

October 29, 2009

Carlile Patchen & Murphy LLP  
Attn: William Yost  
366 E Broad Street  
Columbus, OH 43215

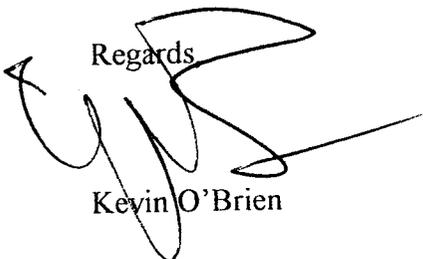
Re: American Kidney Stone Management Ltd v. Judy Harris 07-CVF-53334

Dear Mr. Yost:

Please consider this our final request for the \$81.55 sent to your office 10/2/08 from Franklin County Clerk of Courts through wage garnishment. Our office has spoken to you several times regarding the overpayment for your case which should have been applied to ours; 08-CVI-011684.

Please remit \$81.55 by Friday, November 6, 2009 to our office or we will notify the appropriate authorities on your unwillingness to comply.

Regards

  
Kevin O'Brien

ALL-STATE LEGAL®  
PLAINTIFF'S  
EXHIBIT  
4

IN THE MUNICIPAL COURT OF FRANKLIN COUNTY, OHIO

FILED

2010 FEB -3 PM 3:57

Columbus Checkcashers, Inc., :

Plaintiff, :

v. :

Toia Proctor, :

Defendant. :

Case No.: 2008 CV10011684

FRANKLIN COUNTY  
MUNICIPAL COURT  
LORI M. TYACK

ENTRY

This matter is before the Court at the request of the Franklin County Clerk of Court.

On/about March 13, 2008, attorney Kevin O'Brien filed a complaint in this case against the Defendant. On April 30, 2008, judgment was awarded in favor of the Plaintiff and against the Defendant. On June 9, 2008, the Plaintiff's Counsel issued an affidavit and order of garnishment of personal earnings. On June 16, 2008, this Court issued an order and notice of wage garnishment. Subsequently, Defendant's employer, Zaner Bloser, began depositing monies withheld from the Defendant's wages in accordance with the Court's order of June 16, 2008.

On/about June 16, 2008, Zaner Bloser deposited the sum of \$87.92 with the Clerk of this Court. \$81.55 of the \$87.92 forwarded by Zaner Bloser to the Clerk should have been applied to the wage garnishment in this case. The balance, \$6.37, should have been applied to the wage garnishment of another Zaner Bloser employee, Judy Harris, who was a Defendant in American Kidney Stone Management, Ltd. v. Judy Haris, Case No.: 2007 CVF 053334. However, the entirety of the \$87.92 was mistakenly sent to attorney

ALL-STATE LEGAL®  
PLAINTIFF'S  
EXHIBIT  
**5**

William Yost of Carlile, Patchen & Murphy.

In view of this error, William Yost is, within thirty (30) days of the date of this Entry, ordered to return the sum of \$81.55 to the Franklin County Municipal Clerk of Court. Further, within thirty (30) days of the date on which Yost deposits the aforesaid sum with the Franklin County Municipal Court Clerk, the Clerk is ordered to disburse the sum of \$81.55 to O'Brien and satisfy the judgment in this case.

**IT IS SO ORDERED.**

\_\_\_\_\_  
Judge

Approved:

\_\_\_\_\_  
Kevin O'Brien (0028108)

Kevin O'Brien  
**KEVIN O'BRIEN & ASSOCIATES CO., L.P.A.**  
995 South High St.  
Columbus, OH 43206  
614/224-3080  
Counsel for Plaintiff

William Yost  
Carlile, Patchen & Murphy, L.L.P.  
366 E. Broad St.  
Columbus, OH 43215

IN THE FRANKLIN COUNTY MUNICIPAL COURT  
COLUMBUS, OHIO

COLUMBUS CHECKCASHERS, INC.

Plaintiff,

v.

TOIA PROCTOR,

Defendant.

Case No. 2008 CVI 011684

RECEIVED  
CLERK OF COURT  
FRANKLIN COUNTY, OHIO  
AUG 20 2012

**JUDGMENT ENTRY**

This matter came before the Court *sua sponte*, upon the Court's own Motion. An Entry had been filed on February 3, 2010 regarding reimbursement of funds sent by mistake by the Clerk's office to counsel on a different case, which Entry was subsequently vacated by the Court. Upon review of the file and documentation of the mistake made in disbursement of funds received, it is hereby

**ORDERED** and **AJUDGED** that the Clerk's office is directed to forthwith forward to Plaintiff's counsel in this matter, Kevin O'Brien, the amount of \$81.55, representing funds previously collected from Defendant's employer that should have been paid in this case, which funds were mistakenly sent to another attorney under case number 2007 CVF 53334 on or about October, 2008.

August 17, 2012

  
\_\_\_\_\_  
JUDGE DAVID B. TYACK



FRANKLIN COUNTY MUNICIPAL COURT  
CIVIL DIVISION, 3RD FLOOR  
375 SOUTH HIGH STREET  
COLUMBUS, OHIO 43215

CHECKS 2 CASH INC c/o JONATHAN HOLFINGER  
495 SOUTH HIGH ST STE 250  
COLUMBUS OH 43215

STYLE: CHECKS 2 CASH INC vs. DAWN C REESE

CASE NO.: 2004 CVI 035812

**NOTICE OF COURT ORDER**

THE ABOVE NAMED PARTY IS HEREBY NOTIFIED THAT A COURT ORDER WAS FILED AND DOCKETED, WHICH STATES IN PERTINENT PART:

10/08/2004

MAGISTRATES DECISION AND JUDGMENT ENTRY FILED FOR  
PLAINTIFF IN SUM OF \$600.00 PLUS 4 % I/C PER JUDGE HALE

MICHAEL A. PIRIK, CLERK  
BY: A C  
DEPUTY CLERK  
PHONE : 614-645-7220

THE FOREGOING WAS SENT TO THE ABOVE NAMED INDIVIDUAL BY ORDINARY  
U.S. MAIL THIS DATE October 12, 2004



**ATTACHMENT NOT SCANNED**

**SMALL CLAIM CASE SUMMARY**

**CHECKS 2 CASH**

*Plaintiff*

**Vs**

**REESE, DAWN C**

*Defendant*

Case No. 2004 CVI 035812

Status: CLOSED

Filed: 08/31/2004

1	<b>Name</b>	CHECKS 2 CASH	<b>Type</b>	PLAINTIFF	<i>Tim</i>
	<b>Address</b>	P O BOX 12148	<b>State/Zip</b>	OH/43212	
	<b>City</b>	COLUMBUS			
2	<b>Name</b>	REESE, DAWN C	<b>Type</b>	DEFENDANT	
	<b>Address</b>	3928 LAUREL LN	<b>State/Zip</b>	OH/43232	
	<b>City</b>	COLUMBUS			

<u>Status</u>	<u>Status Date</u>	<u>Disposition Code</u>	<u>Disposition Date</u>
CLOSED	08/31/2004	JUDGMENT HEARD BY MAGISTRATE	10/08/2004

<u>Event</u>	<u>Date</u>	<u>Start</u>	<u>End</u>	<u>Judge</u>	<u>Ct.Rm.</u>	<u>Result</u>
SMALL CLAIMS HEARING	10/07/2004	02:00 PM	02:25 PM	MAGISTRATE, TEMP		

<u>Docket Application</u>	<u>Amount Owed</u>	<u>Amount Paid</u>	<u>Amount Dismissed</u>	<u>Balance</u>
DEPOSIT	\$757.09	\$757.09	\$0.00	\$0.00
PAYMENT	\$757.09	\$757.09	\$0.00	\$0.00
COST	\$217.00	\$217.00	\$0.00	\$0.00
<b>TOTAL:</b>	<b>\$974.09</b>	<b>\$974.09</b>	<b>\$0.00</b>	<b>\$0.00</b>

<u>Created</u>	<u>Payee Name</u>	<u>Description</u>	<u>Account</u>	<u>Check</u>	<u>Amount</u>
01/25/2006	JONATHAN HOLFINGER	Case: 2004 CVI 035812 DISBURSEMENT OF A CIVIL WAGE	65021	151518	\$210.48
02/02/2006	JONATHAN HOLFINGER	Case: 2004 CVI 035812 DISBURSEMENT OF A CIVIL WAGE	65021	151880	\$187.70
01/17/2006	JONATHAN HOLFINGER	Case: 2004 CVI 035812 DISBURSEMENT OF A CIVIL WAGE	65021	151269	\$187.38
02/24/2006	JONATHAN HOLFINGER	Case: 2004 CVI 035812 DISBURSEMENT OF A CIVIL WAGE	65021	152529	\$171.53



<u>Number</u>	<u>Cash Book</u>	<u>Received From</u>	<u>Status</u>	<u>Date</u>	<u>Total Amount</u>
4715946	CIVIL	HOLFINGER, JONATHAN	FINAL	08/31/2004	\$47.00
5626014	CIVIL	DUPONT, GREGORY	FINAL	02/18/2005	\$85.00
6610970	CIVIL	NATIONAL CITY CORPORATION	FINAL	01/20/2006	\$187.70
6619118	CIVIL	NATIONAL CITY CORPORATION	FINAL	02/06/2006	\$171.53
5758042	CIVIL	O'BRIEN, KEVIN J	FINAL	11/04/2005	\$85.00
6605526	CIVIL	NATIONAL CITY CORP	FINAL	01/12/2006	\$210.48
6601539	CIVIL	NATIONAL CITY CORPORATION	FINAL	01/05/2006	\$187.38

<u>Docket Date</u>	<u>Docket Text</u> (Expand All - Collapse All)	<u>Amount</u>	<u>Balance</u>
02/24/2006	DISBURSEMENT OF A CIVIL WAGE GARNISHMENT	\$171.53	\$0.00
02/06/2006	DEPOSIT OF CIVIL WAGE GARNISHMENT HOLFINGER Receipt: 6619118 Date: 02/06/2006	\$171.53	\$0.00
02/02/2006	DISBURSEMENT OF A CIVIL WAGE GARNISHMENT	\$187.70	\$0.00
01/25/2006	DISBURSEMENT OF A CIVIL WAGE GARNISHMENT	\$210.48	\$0.00
01/20/2006	DEPOSIT OF CIVIL WAGE GARNISHMENT HOLFINGER Receipt: 6610970 Date: 01/20/2006	\$187.70	\$0.00
01/17/2006	DISBURSEMENT OF A CIVIL WAGE GARNISHMENT	\$187.38	\$0.00
01/12/2006	DEPOSIT OF CIVIL WAGE GARNISHMENT HOLFINGER Receipt: 6605526 Date: 01/12/2006	\$210.48	\$0.00
01/06/2006	EMPLOYER VERIFIES EMPLOYMENT NATIONAL CITY BANK VERIFIES EMPLOYMENT		
01/05/2006	DEPOSIT OF CIVIL WAGE GARNISHMENT HOLFINGER Receipt: 6601539 Date: 01/05/2006	\$187.38	\$0.00
11/29/2005	IMAGE OF GREEN CARD		
11/28/2005	CERTIFIED MAIL  Method : CERTIFIED MAIL Issued : 11/14/2005 Service : WAGE GARN BY CERT MAIL Served : 11/25/2005 Return : 11/28/2005 On : NATIONAL CITY BANK Signed By : F SOFOSKI  Reason : SUCCESSFUL CERTIFIED MAIL Comment :  Tracking # : C000375537		
11/16/2005	MOTION TO TAX EXPENSES WAGE AFFIDAVIT FILED		
11/14/2005	CERTIFIED MAIL		

Issue Date: 11/14/2005  
 Service: WAGE GARN BY CERT MAIL  
 Method: CERTIFIED MAIL  
 Cost Per: \$ 0.00

NATIONAL CITY BANK  
 ATTN: JAMIE KANE 01-5124  
 4100 W 150TH AVE  
 CLEVELAND, OH 44135  
 Tracking No: C000375537

- 11/14/2005 ORDER AND NOTICE OF WAGES ISSUED BY CERTIFIED MAIL
- 11/04/2005 WAGE GARNISHMENT FILED \$85.00 \$0.00  
 Receipt: 5758042 Date: 11/04/2005
- 03/10/2005 NO MONEY PAID FOR GARN DATED  
 GARN DSM AT CREDITOR'S COST. NO MONEY PAID FOR GARN DATED 022205  
 BAILIFF SAYS INABILITY TO SERVE CANNOT LOCATE THIS ADDRESS.
- 02/22/2005 ORDER AND NOTICE OF GARNISHMENT OF WAGES  
 ISSUED BY BAILIFF SERVICE
- 02/18/2005 ORDER AND NOTICE OF GARNISHMENT  
 Sent on: 02/22/2005 09:40:30  
 WAGE GARNISHMENT FILED \$85.00 \$0.00  
 Receipt: 5626014 Date: 02/18/2005
- 10/12/2004 NOTICE OF COURT ORDER ISSUED  
 WITH COPY OF ORDER ATTACHED
- 10/08/2004 NOTICE OF COURT APPEARANCE  
 Sent on: 10/12/2004 09:34:09  
 MAGISTRATES DECISION AND JUDGMENT ENTRY FILED  
 FOR PLAINTIFF IN SUM OF \$ PLUS 8 % I/C PER JUDGE  
 MAGISTRATES DECISION AND JUDGMENT ENTRY FILED FOR PLAINTIFF IN  
 SUM OF \$600.00 PLUS 4 % I/C PER JUDGE HALE
- 09/14/2004 ORDINARY MAIL CERTIFICATE OF MAILING DATED & FILED  
 NEXT BUS. DAY

Issue Date: 09/14/2004  
 Service : OM ISSUE SVC FOR SMALL CLAIMS  
 Method : ORDINARY MAIL  
 Cost Per :\$ 0.00

REESE, DAWN C  
 3928 LAUREL LN  
 COLUMBUS, OH 43232

Tracking No: O000218679

09/14/2004 SUMMONS AND COPY OF COMPLAINT ISSUED BY ORD  
MAIL CERT. OF MAILING DATED & FILED NEXT BUS. DAY

09/01/2004 CERTIFIED MAIL

Issue Date: 09/01/2004  
Service : ISSUE SVC FOR SMALL CLAIMS  
Method : CERTIFIED MAIL  
Cost Per :\$ 0.00

REESE, DAWN C  
3928 LAUREL LN  
COLUMBUS, OH 43232  
Tracking No: C000303970

09/01/2004 SUMMONS ISSUED WITH COPY OF COMPLAINT

09/01/2004 SMALL CLAIMS MAGISTRATE HEARING SCHEDULED

Event: SMALL CLAIMS HEARING  
Date: 10/07/2004 Time: 2:00 pm  
Judge: HUMMER, MARK Location: 10B LOCATED ON THE 10TH FLOOR

08/31/2004 SMALL CLAIMS COMPLAINT FILED \$47.00 \$0.00

Receipt: 4715946 Date: 08/31/2004

**Kevin O'Brien &  
Associates Co., L.P.A.**

A T T O R N E Y S   A T   L A W

KEVIN J. O'BRIEN  
CARRIE DOPPES WOLFE

OF COUNSEL:  
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OF COUNSEL:

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COLUMBUS, OHIO

LEISA BOLEY HELLIWARTH  
CELINA, OHIO

KIM M. HALLIBURTON-COHEN  
UPPER ARLINGTON, OHIO

May 1, 2007

Jonathan L. Holfinger, Esq.  
495 S. High St., SUite 220  
Columbus, OH 43215

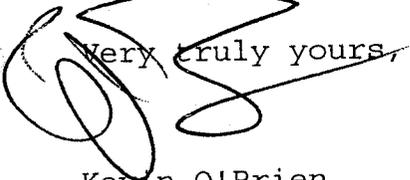
Re: Checks 2 Cash, Inc. v. Dawn D. Reese

Dear Jon:

In reviewing the Court docket in the above-referenced case it looks like the Court disbursed \$757.09 to you on a wage garnishment we filed. It looks like the Court did not pick up our appearance.

Would you mind looking into this matter and advising what has become of the money. Thanks. Best regards. I am,

Very truly yours,

  
Kevin O'Brien

encl:

ALL-STATE LEGAL®  
PLAINTIFF'S  
EXHIBIT  
10

FILED  
IN THE MUNICIPAL COURT OF FRANKLIN COUNTY, OHIO

2010 FEB -3 PM 3:56

Checks 2 Cash, Inc., :  
Plaintiff, :  
v. :  
Dawn C. Reese, :  
Defendant. :

Case No.: 2004 CVI 035812  
FRANKLIN COUNTY  
MUNICIPAL COURT  
LORI M. YACK

ENTRY

This matter is before the Court at the request of the Franklin County Clerk of Court. On/about November 4, 2005, attorneys Kevin O'Brien and Carrie Doppes-Wolfe entered their appearance for the Plaintiff in this case in the place and stead of Jonathan L. Holfinger. On the same date, O'Brien and Doppes-Wolfe filed an Affidavit to Issue an Order and Notice of Garnishment of the Personal Earnings of the Defendant. The Defendant's employer complied with the Court's order and deposited the sum of \$757.09 with the Clerk of Court which money was later mistakenly disbursed by the Clerk to Holfinger, instead of O'Brien/Doppes-Wolfe.

In view of this error, Jonathan L. Holfinger is, within thirty (30) days of the date of this Entry, ordered to return the sum of \$757.09 to the Franklin County Municipal Clerk of Court. Further, within thirty (30) days of the date on which Holfinger deposits the aforesaid sum with the Franklin County Municipal Court Clerk, the Clerk is ordered to disburse the sum of \$757.09 to O'Brien/Doppes-Wolfe and satisfy the judgment in this case.



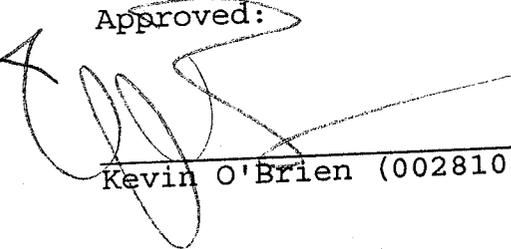
IT IS SO ORDERED.

JUDGE ANDREA C. PEEPLES

\_\_\_\_\_  
Judge

FEB 3 2010

Approved:

  
\_\_\_\_\_  
Kevin O'Brien (0028108)

Kevin O'Brien  
**KEVIN O'BRIEN & ASSOCIATES CO., L.P.A.**  
995 South High St.  
Columbus, OH 43206  
614/224-3080  
Counsel for Plaintiff

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Columbus, OH 43215  
614/224-6240