

IN THE COURT OF COMMON PLEAS  
GEAUGA COUNTY, OHIO

WESTWOOD ELEMENTARY )  
SCHOOL PARENT TEACHER )  
ORGANIZATION INC )  
c/o Fanger & Davidson LLC, Stat. Agent )  
8396 Mayfield Rd. )  
Chesterland, OH 44026 )

Plaintiff )

vs. )

KATHRYN BURRY )  
10165 Charlton Lane )  
Novelty, OH 44072 )

Defendant )

CASE NO.

JUDGE:

**COMPLAINT FOR FRAUD,  
BREACH OF FIDUCIARY  
DUTY, CONVERSION AND  
UNJUST ENRICHMENT  
(Trial By Jury Demanded)**

**(JURY DEMAND ENDORSED HEREON)**

Now comes the Plaintiff, WESTWOOD ELEMENTARY SCHOOL PARENT  
TEACHER ORGANIZATION INC. (hereafter “Plaintiff” and/or  
“Westwood PTO”), by and through undersigned counsel, and for their Complaint, alleges  
and avers as follows.

- 1) Plaintiff is a non-profit corporation organized under the laws of Ohio, with its place  
of operation in the West Geauga School District comprising Newbury, Russell and  
Chester Townships in Geauga County, Ohio.
- 2) Plaintiff is a Parent Teacher Organization comprised of Elementary School Parents  
that provide services in support of the Westwood Elementary School located in the  
West Geauga School District.

- 3) Defendant is an individual who was a previously the elected Treasurer of the Westwood PTO.
- 4) Defendant commenced her term as Treasurer of the Westwood PTO on or about August 1, 2021.
- 5) As Treasurer, Defendant had significant authority and autonomy and used this authority to mislead and conceal financial information from the Board of Trustees of the Westwood PTO.
- 6) On or about June 25, 2024, Krista Kalina the President of the Westwood PTO, became aware of an alleged fraud being perpetrated upon the Westwood PTO by the Defendant. (Exhibit A, Affidavit of Krista Kalina)
- 7) Upon becoming aware, on or about June 25, 2024, Ms. Kalina, learned the corporate bank account was significantly lower than Defendant had led her to believe.
- 8) On or about June 26, 2024, Ms. Kalina had also discovered Defendant had used the Westwood PTO to pay various vendors and third parties including her business Hipsters and herself funds that were the property of Westwood PTO without authorization and had engaged in pattern of misrepresentations and fraudulent statements in order to conceal her fraudulent activities.
- 9) On or about June 26, 2024, upon the President of Westwood PTO notifying the Board, a Board Meeting was convened, and a resolution was passed by the Board demanding all books and records be turned over to the Board pursuant to Article VII Section 2(b) of the Organizations' bylaws and a second resolution was passed to ratify the decision of the President to remove the Treasurer from access to any

- and all bank accounts, financial accounts, credit cards and other financial access of the Organization.
- 10) On or about July 3, 2024, a Demand for the Immediate Return of Records and To Preserve and Not Destroy Electronic Evidence was served upon the Defendant by counsel for the Plaintiff through regular and certified mail.
  - 11) On or about July 22, 2024 the Defendant produced two substantial packages of records in response to the July 3, 2024 demand.
  - 12) The Defendant's term of office as Treasurer formally expired on July 31, 2024 and Defendant therefore no longer serves as Treasurer.
  - 13) Based upon a review of the financial records, Plaintiff has learned that Defendant has engaged in a series of fraudulent activities to the direct financial detriment of the Plaintiff.
  - 14) The Defendant perpetrated a fraud upon the Plaintiff, by concealing financial information and misdirecting in excess of \$25,000, the exact amount to be determined at trial, of the funds of the organization to her own personal benefit and the benefit of her personal business.
  - 15) The Defendant perpetrated a fraud upon the Plaintiff, by producing fraudulent documents, reports, accounting records, and other materials, correspondence and communication.
  - 16) Defendant produced the fraudulent documents for the purpose of concealing fraud and misuse of funds.
  - 17) Based on information and belief, Defendant has failed to properly deposit cash receipts into the Plaintiff's bank account that were the property of the Plaintiff.

- 18) Based on information and belief, Defendant has misused the Cheddar account of the Plaintiff for her own purposes and to the disadvantage of the Plaintiff.
- 19) Based on information and belief, Defendant has issued checks and used company debit cards to pay her personal bills and the bills of her personal business.
- 20) Based on information and belief, Defendant has retained cash payments that rightfully should have been deposited in the accounts of the Plaintiff.
- 21) Based on information and belief, Defendant has absconded with funds that are the rightful property of the Plaintiff.
- 22) Based on information and belief, Defendant has defrauded the Plaintiff in an amount in excess of \$25,000 the exact amount to be determined at trial.

COUNT ONE  
FRAUD AND THEFT  
Violations of R.C. 2307.60, 2307.61, 2315.21 & 2913.01

- 23) Plaintiff incorporates by reference all of the allegations set forth above in paragraphs 1 – 22 as if fully rewritten herein.
- 24) Defendant has engaged in a pattern of behavior designed to fraudulently obtain funds rightfully the property of the Plaintiffs in violation of R.C. 2307.60, et. seq., 2307.61, et. seq. 2315.21, et. seq. and 2913.01, et. seq.
- 25) Defendant Kathryn Burry has intentionally engaged in a complex and lengthy pattern of fraud and concealment with intent to defraud Plaintiff for the purpose of obtaining funds that were the rightful property of the Plaintiff.
- 26) Defendants' actions constitute intentional theft and fraud as defined in O.R.C. §2913.01 which is actionable in a civil action by the Plaintiff pursuant to O.R.C. §2307.60 et. seq.

- 27) Defendant has acted with actual malice or egregious fraud in depriving Plaintiff which is an elementary school parent teacher organization that supports children's education, of the funds that Plaintiff uses to operate and provide services to elementary children.
- 28) Plaintiff reasonably relied upon the false representations, false assertions, and false documents issued by the Defendant.
- 29) Defendant fraudulently converted Plaintiff's funds to her own use and to the use of her personal business entity.
- 30) Defendant presented Plaintiff with a series of materially false representations and further took steps to conceal from Plaintiff the financial status of the non-profit organization and her use of the organization's funds.
- 31) Defendant's actions were done with the intent of misleading the Plaintiff, its officers and board of trustees.
- 32) Plaintiff, its officers and board of trustees reasonably relied upon the fraudulent misrepresentations of the Defendant.
- 33) Defendant was well aware that she was making fraudulent misrepresentations, was refusing to provide timely financial reports, and was misleading the officers and board of trustees of the Non-Profit Organization so as to conceal her activities.
- 34) Defendant had a duty to disclose truthful and accurate information to the President, officers and board members of the Organization and repeatedly and intentionally failed to do so.
- 35) The Defendant's concealments and false reports were material and instrumental in

- in ability to perpetuate the concealment of her misuse of the Plaintiff's funds.
- 36) Defendant knew at the time that she proffered inaccurate reports or proffered recklessly with disregard for their truth such that her knowledge may be inferred regarding the falsity of said reports and that said reports were inaccurate and Defendant proffered said reports to facilitate her concealment of her misuse of the Plaintiff's funds.
- 37) Defendants actions and false reports constituted fraudulent concealment and was done intentionally to prevent the officers and board members from acquiring material information that would promptly lead to expose her fraudulent activities.
- 38) Plaintiff has been materially and substantially injured in an amount in excess of \$25,000 the exact amount to be set forth at trial due to the fraudulent actions of the Defendant.
- 39) As a result of Plaintiff's reasonable reliance, Plaintiff has been harmed in an amount in excess of \$25,0000 plus attorney fees, applicable court costs, filing fees for this action and is entitled to recover treble damages under Ohio law.

COUNT TWO  
BREACH OF FIDUCIARY DUTIES

- 40) Plaintiff incorporates by reference all of the allegations set forth above in paragraphs 1 – 39 as if fully rewritten herein.
- 41) As Treasurer of the Westwood PTO, Defendant was entrusted to properly manage, account for and safeguard Plaintiff's funds.
- 42) Defendant took possession of cash and funds belonging to the Plaintiff which constituted a bailment.

- 43) When said Defendants entered into the bailment, Defendants became fiduciaries of Plaintiffs and owed Plaintiffs fiduciary duties.
- 44) When Defendant was elected Treasurer and accepted the role of Treasurer, Defendant became a fiduciary of the Plaintiff and owed the Plaintiff duties pursuant to R.C. 1701.641 which states in relevant portion: "An officer shall perform the officer's duties to the corporation in good faith, in a manner the officer reasonably believes to be in or not opposed to the best interests of the corporation, and with the care that an ordinarily prudent person in a like position would use under similar circumstances."
- 45) By failing to properly prepare and present accurate financial reports as required by the board and the bylaws, the Defendant has failed to act in good faith and therefore has breached her fiduciary duties to Plaintiffs.
- 46) By failing to properly deposit cash and funds belonging to the Plaintiff, the Defendant has failed to act in good faith and therefore has breached her fiduciary duties to Plaintiff.
- 47) By misdirecting funds to her own personal use and the use of her business, that were the rightful property of the Plaintiff, the Defendant has failed to act in good faith and therefore has breached her fiduciary duties to Plaintiff.
- 48) Defendants actions were undertaken with deliberate intent to cause injury to the Plaintiff and constituted reckless disregard for the best interest of the corporation.
- 49) As a result of said Defendants breach of fiduciary duties, Plaintiffs have been harmed in the amount in excess of \$25,000.00 the exact amount to be determined at trial, plus attorney fees, applicable court costs, and filing fees for this action.

- 50) Defendant's conduct was intentional and willful.
- 51) Defendant's conduct merits punitive damages in an amount sufficient to curtail said conduct.

COUNT THREE  
CONVERSION

- 52) Plaintiff incorporates by reference all of the allegations set forth above in paragraphs 1 – 51 as if fully rewritten herein.
- 53) Defendant has exercised wrongful dominion over the cash and property of the Plaintiff to the exclusive rights of the Plaintiff without any valid legal claim.
- 54) Plaintiff is the rightful owner of all cash receipts from all fundraising activities, book sales and activities of Plaintiff that were overseen by and coordinated by Defendant.
- 55) Defendant never had any right to possession of the cash receipts or online receipts of monies donated and/or paid to Plaintiff.
- 56) Defendant's retention of the cash and online receipts is a wrongful act and has damaged Plaintiff in an amount in excess of \$25,000 the exact amount of which shall be proven at trial.

COUNT FOUR  
UNJUST ENRICHMENT

- 57) Plaintiff incorporates by reference all of the allegations set forth above in paragraphs 1 – 56 as if fully rewritten herein.
- 58) Defendant has been unjustly enriched by the use and enjoyment of Plaintiffs funds and assets to the direct detriment of the Plaintiff.

59) The further retention of funds held by Defendant would result in inequity and injustice. Therefore, the Plaintiff is entitled to damages in a sum in excess of \$25,000 to be proven at trial, plus interest, costs, expenses, and such other relief as this Court deems just and proper.

COUNT FIVE  
PUNITIVE DAMAGES

60) Plaintiff incorporates by reference all of the allegations set forth above in paragraphs 1 – 56 as if fully rewritten herein.

61) Defendant was an elected Treasurer responsible for the safekeeping of funds used to support elementary children and to support the public education and development of children in the local area schools.

62) The conduct of Defendant is will-full and wanton and was done with specific intent to defraud and harm the Plaintiff and thereby the children of the elementary school system and therefore merits punitive damages in an amount sufficient to curtail said conduct.

63) As a result of said misconduct, Plaintiff have been harmed in the amount in excess of \$25,000, plus attorney fees, applicable court costs, and filing fees for this action.

WHEREFORE: Plaintiff's respectfully request this Honorable Court award them damages in the amount in excess of \$25,000 the exact amount to be proven at trial, statutory interest, punitive damages in an amount sufficient to curtail said willful and wanton actions, reasonable attorney fees, and costs for the action and such further relief as this Court deems just and proper.

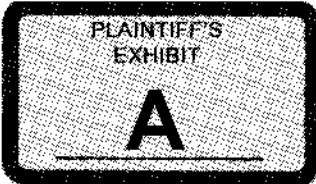
Respectfully submitted,  
FANGER & DAVIDSON LLC

/s/ Jeffrey J. Fanger, Esq.  
JEFFREY J. FANGER (No. 0058439)  
GERRY DAVIDSON (No. 0022467)  
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*Attorneys for Plaintiffs*

JURY DEMAND

Plaintiff demands a trial by jury in this action.

/s/ Jeffrey J. Fanger, Esq.  
JEFFREY J. FANGER (No. 0058439)  
*Attorney for Plaintiff*



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GEAUGA COUNTY, OHIO

WEST WOOD ELEMENTARY )  
SCHOOL PARENT TEACHER )  
ORGANIZATION INC. )  
c/o Fanger & Davidson LLC, Stat. Agent )  
8396 Mayfield Rd. )  
Chesterland, OH 44026 )

Plaintiff )

vs. )

KATHRYN BURRY )  
10165 Charlton Lane )  
Novelty, OH 44072 )

CASE NO.

JUDGE:

**AFFIDAVIT OF KRISTA KALINA**

STATE OF OHIO )  
COUNTY OF )

SS: AFFIDAVIT

**Krista Kalina**, having been first duly sworn according to law, hereby state and depose that:

- 1) I am the outgoing President of the Westwood PTO and was the president during the time period that the issues involved in this matter were identified.
- 2) On or about June 25, 2024, I as the President of the Westwood PTO, became aware of an alleged fraudulent activity being perpetrated upon the Westwood PTO by its Treasurer Kathryn Burry.
- 3) Ms. Burry had previously provided minimal financial reports to the Board despite repeated requests and had avoided multiple requests for financial information raising concerns with me regarding the financial activities of the organization.

- 4) On or about June 25, 2024, I contacted directly Citizen Bank in Chesterland and learned that the Westwood PTO accounts were significantly lower than I and the board had been led to believe by the Treasurer Kathryn Burry.
- 5) I requested bank records from the bank and based upon a review of those bank records on or about June 26, 2024, I discovered the Treasurer Kathryn Burry had used the Westwood PTO to pay various vendors and third parties including her business Hipsters and herself funds that were the property of Westwood PTO without authorization.
- 6) Neither myself nor any other board member to my knowledge was aware of these transactions and it is my belief that Kathryn Burry had engaged in a pattern of misrepresentations and presented myself and members of the board fraudulent statements in order to conceal what she was doing from the Board and the officers.
- 7) Upon reviewing the financial records, I notified the other Board Members and on or about June 26, 2024, a Board Meeting was convened, and a resolution was passed by the Board demanding all books and records be turned over to the Board pursuant to Article VII Section 2(b) of the Organizations' bylaws and a second resolution was passed to ratify my decision made at the bank to protect the accounts from further harm, to remove the Treasurer from access to any and all bank accounts, financial accounts, credit cards and other financial access regarding Westwood PTO.

- 8) Together with the Board, we authorized legal counsel to notify the Treasurer of the resolutions and also to commence a lawsuit to pursue recovery of the assets that were taken.
- 9) On or about July 22, 2024 Ms. Burry provided a series of records in response to our demand for the return of the association's records.
- 10) Ms. Burry's term of office officially expired on July 31, 2024 and she no longer serves as Treasurer of Westwood PTO.
- 11) Board members and myself reviewed the financial records received from the bank and from Ms. Burry and we have determined that there are a series of inappropriate financial transactions benefitting Ms. Burry personally and/or her business Hipsters and that Westwood PTO has been harmed by her actions.
- 12) Based upon our review of the records to date, I believe that the amount of funds improperly transferred exceeds \$40,000.
- 13) Based upon my and other board member's review of the records, I believe that Ms. Burry failed to properly account for and deposit cash receipts from events of the organization as well as cut inappropriate checks, and took funds through apps including the Cheddar app, and ATM transactions.
- 14) I believe that Ms. Burry intentionally misled myself and members of the board by providing us false information and by avoiding our questions regarding Westwood PTO's financial status and reports.
- 15) I and other members of the Board relied upon the Treasurer and trusted her and relied upon her representations regarding the assets of Westwood PTO.

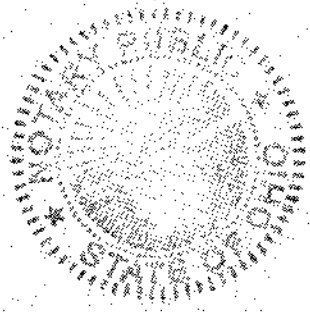
FURTHER AFFIANT SAYETH NAUGHT.

Krista Kalina  
Krista Kalina

STATE OF OHIO :  
: SS  
COUNTY OF GEAUGA :

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above-named **Krista Kalina**, who acknowledged that she did sign and seal the foregoing instrument and that the same is her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Chester Ohio, on this 8 day of August, 2024.



Jeffrey J. Fanger  
NOTARY PUBLIC

Jeffrey J. Fanger, Esq. (#0058439)  
Notary Public, State of Ohio  
My Commission Has No Expiration Date  
Pursuant to O.R.C. §147.03