

COMMONWEALTH OF KENTUCKY  
FAYETTE CIRCUIT COURT  
DIVISION 3  
CIVIL ACTION NUMBER 09-CI-5834

BIG BROTHERS BIG SISTERS OF THE BLUEGRASS, INC.

PLAINTIFF

v.

BENDREA WILSON, DEMETRIUS DAVIS, DANNY FONDREN,  
MARCUS SEARCY, EMMANUEL MARSHALL, and  
CHARLES MEALING

DEFENDANTS

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VERIFIED COMPLAINT

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Comes the Plaintiff, BIG BROTHERS BIG SISTERS OF THE BLUEGRASS, INC. (hereinafter "BBBS"), by and through undersigned counsel, and for its verified complaint states as follows:

INTRODUCTION

This is a civil action for damages for embezzlement, conversion and for injunctive relief by Plaintiff BBBS which are the direct result of the acts of Defendant Bendrea Wilson, a former employee of Plaintiff BBBS and five other individuals who aided and abetted the former employee in the embezzlement and conversion of approximately \$435,000.00 of funds from the accounts of Plaintiff BBBS.

The Plaintiff BBBS brings this action to recover funds embezzled and converted for the use of the Defendants; funds which were for the operation of BBBS and which were for the direct benefit of approximately 1,100 children in the Bluegrass Region. The

joint acts of the Defendants have so severely impacted the budget of the Plaintiff BBBS that without the immediate recovery of the embezzled funds, or without the assistance of the community, services provided by the Plaintiff BBBS of the Bluegrass have been put in serious peril and could result in the termination of services which benefit the more than 1,100 children currently served by Plaintiff BBBS in 14 central Kentucky counties.

### **JURISDICTION AND VENUE**

1. The Court has jurisdiction of the action pursuant to KRS § 23A.010.
2. Venue properly lies in Fayette County in that the Defendants reside in Fayette County, Kentucky and their criminal acts of embezzlement and conversion took place at banks located in Lexington, Fayette County, Kentucky.

### **THE PARTIES**

3. Plaintiff, Big Brothers Big Sisters of the Bluegrass, Inc. ("BBBS") is a Kentucky Non-Profit Charitable Corporation with its place of business at 1016 Rushwood Court, Lexington, Fayette County, Kentucky 40511.
4. Defendant Bendrea Wilson ("Wilson") is an individual who presently resides and at all relevant times herein is believed to have resided at 2949 Masters View Road, Lexington, Fayette County, Kentucky 40511.
5. Defendant Demetrius Davis ("Davis") is an individual who is believed to presently reside and at all relevant times herein to have resided at 2949 Masters View Road, Lexington, Fayette County, Kentucky 40511.

6. Defendant Danny Fondren ("Fondren") is an individual who is believed to reside and at all relevant times herein to have resided at 3032 Maple Leaf Drive, Lexington, Kentucky 40509.

7. Defendant Marcus Searcy ("Searcy") is an individual who is believed to reside and at all relevant times herein to have resided at 482 High Street, Danville, Kentucky 40422.

8. Defendant Emmanuel Marshall ("Marshall") is an individual is believed to reside and at all relevant times herein to have resided at 431 Rogers Road, #9, Lexington, Kentucky 40505.

9. Defendant Charles Mealing ("Mealing") is an individual who is believed to reside and at all relevant times herein to have resided at 3455 Pimlico Parkway #1, Lexington, Kentucky 40517.

10. Plaintiff BBBS alleges that at all times mentioned herein, and unless otherwise indicated, each of the Defendants was an agent of one or more of the other Defendants, and that each of the defendants in performing the acts alleged, was acting in the course and scope of such agency when they aided and abetted each other in the criminal acts of embezzlement and conversion of the funds of Plaintiff BBBS.

#### STATEMENT OF FACTS

11. Plaintiff BBBS is a Non Profit Charitable corporation organized and existing under the laws of the Commonwealth of Kentucky that provides qualified, caring

adult mentors to interact with disadvantaged children and youth in order to help them reach their potential.

12. In May, 2008, Plaintiff BBBS employed Defendant Wilson in the capacity of Office Manager for its Lexington, Kentucky, main office. None of the other Defendants were or are employed by or known to Plaintiff BBBS.

13. In her capacity as Office manager for Plaintiff BBBS, Defendant Wilson was responsible for oversight of the Plaintiff BBBS's bank accounts with Plaintiff BBBS's bank ("the bank") from the inception of her employment in May, 2008, to her resignation on October 27, 2009.

14. In Defendant Wilson's capacity as Office Manager, she had the authority to transfer funds among Plaintiff BBBS's bank accounts with the bank and request that checks be drawn on these accounts by the Plaintiff BBBS's agency bookkeeper.

15. During the period of her employment, Defendant Wilson had numerous checks (at least 142 items) drawn by Plaintiff BBBS's bookkeeper, and made payable to the Defendants, Davis, Fondren, Searcy, Marshall and Mealing without permission from Plaintiff and without Plaintiff's knowledge.

16. Over the period from approximately November, 2008, until October, 2009, Defendant Wilson (or someone on her behalf) forged the signatures of two of Plaintiff's authorized signatory parties on each of these checks in order to facilitate their negotiability.

17. Defendant Wilson would then deliver the checks to her accomplices, Defendants Davis, Fondren, Searcy, Marshall and Mealing who would in turn present

these checks to the bank in return for an immediate cash distribution. This occurred on a repetitive basis over an approximate twelve (12) month period.

**FIRST CAUSE OF ACTION**  
**Embezzlement**

18. Plaintiff BBBS re-alleges and incorporates by reference each allegation contained in paragraphs 1 through 17 above.

19. As a result of the actions of Defendants, jointly and severally, in unlawfully taking and refusing to return Plaintiff BBBS's funds, Plaintiff BBBS has been damaged in an amount of at least \$435,837.68. But for the intentional and willful conduct of Defendants, jointly and severally, Plaintiff BBBS would have retained its rightful property and not been damaged.

20. Because of the deliberate, malicious, and oppressive nature of the conduct of the Defendants, Plaintiff BBBS seeks an award of punitive damages against Defendants, and each of them, in order to punish and deter them and others from similar acts.

**SECOND CAUSE OF ACTION**  
**Conversion Under Common Law and Statute**

21. Plaintiff BBBS re-alleges and incorporates by reference each allegation contained in paragraphs 1 through 20 above.

22. As of October 27, 2009, the date on which Plaintiff BBBS discovered the improper taking of Plaintiff's funds in excess of \$435,000.00, the Defendants, and each of them intentionally interfered with Plaintiff's right to possession of these funds, and in

their improper taking of the funds and refusal to return them, have exercised dominion and control over Plaintiff's rightful property, all to Plaintiff's damage.

23. Because of the deliberate, malicious, and oppressive nature of the Defendants' conduct, Plaintiff BBBS seeks an award of punitive damages against each of the Defendants in an amount sufficient to deter them and others from similar acts.

### **THIRD CAUSE OF ACTION Injunctive Relief Against All Defendants**

24. Plaintiff BBBS re-alleges and incorporates by reference each allegation contained in paragraphs 1 through 23 above.

25. At the present time, the Defendants hold funds and/or assets amounting to at least \$435,837.68 belonging to Plaintiff BBBS, and if defendants are not enjoined from transferring such funds or assets, they will be disbursed and/or converted in a manner that will prevent Plaintiff BBBS from tracing them to the funds embezzled by Defendant Wilson. Therefore, Plaintiff BBBS requests that the Court enter an injunction to prevent the transfer of all funds and/or any other assets in the Defendants' possession or control until such time as the Court rules on the respective rights of the parties.

**WHEREFORE**, Plaintiff BBBS respectfully prays for the following:

1. For judgment against the defendants, jointly and severally, in the amount of \$435,847.68, or the final amount determined to have been embezzled and converted as a result of the criminal acts of the Defendants; and

2. For an immediate Order of Injunction, restraining and enjoining the Defendants and each of them from directly or indirectly transferring any funds and/or any other assets in their possession or control until such time as the Court rules on the respective rights of the parties; and
3. For punitive damages against the Defendants in an amount sufficient to deter them and others from similar acts; and
4. For a trial by jury; and
5. For such other and further relief as the Court may deem appropriate, to include attorneys fees and costs associated with this action.

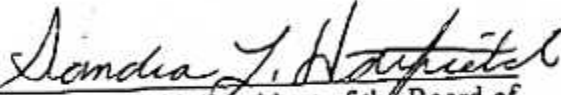
Respectfully submitted,



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VERIFICATION

I hereby verify, under oath, that the foregoing Complaint is true and correct to the best of my knowledge and belief.

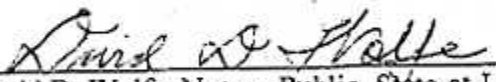
  
Sandra L. Hatfield, President of the Board of  
Directors of Big Brothers Big Sisters of the  
Bluegrass

COMMONWEALTH OF KENTUCKY )

COUNTY OF FAYETTE )

Before me, the undersigned, appeared Sandra L. Hatfield, known to me or established by proof and signed the foregoing verification this the 31<sup>st</sup> day of October, 2009.

My Commission expires March 11, 2011

  
David D. Wolfe, Notary Public, State-at-Large,  
Kentucky