

DOCKET NO. HHD CV 23 6174888 S : SUPERIOR COURT
OZ PARISER : J. D. OF HARTFORD
V. : AT HARTFORD
COLIN CHICHAKLY : JUNE 11, 2024

MEMORANDUM OF DECISION

On May 22, 2024, the plaintiff in this matter concerning an investment in a proposed sandwich shop presented evidence to the court at a hearing in damages. After consideration of the evidence and arguments presented at the hearing, the court issues this memorandum of decision.

I

Background

In his seven count complaint, dated September 25, 2023, the plaintiff, Oz Pariser, alleges that he and defendant Colin Chichakly were 50% owners of a limited liability company, C&O Holdings, LLC (Company), which was formed to lease a space for purposes of opening a sandwich shop. According to the Company's operating agreement (Plaintiff's Exhibit 2), Section 14.1, in addition to an initial capital contribution, the plaintiff was to invest \$35,000.00 in the Company. The plaintiff's \$35,000.00 investment was to be reimbursed to him upon the receipt of reimbursement funds from the Company's landlord. See Plaintiff's Exhibit 2, Section 14.1. In accordance with the operating agreement, the plaintiff gave the defendant \$35,000.00, which was deposited in the defendant's checking account.

In addition, the plaintiff alleges that the defendant defaulted on the agreement by spending over \$29,000 of the funds provided by the plaintiff on personal amusements, including on vacations and a down payment on a BMW.

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HARTFORD, CT

CC: Colin Chichakly 6/11/24 CJ Nero

The plaintiff also alleges that he was to receive an additional \$10,000.00 as a return on his investment in the Company, as provided in the operating agreement. Section 14.1 of the operating agreement provides, “In addition, it is understood that OZ PARISER shall receive an additional payment of \$10,000.00 as a return on his investment in the Company.”

The plaintiff’s claims include breach of contract, statutory theft under General Statutes Sec. 52-564, conversion, fraud, breach of fiduciary duty, unjust enrichment, and violation of the Connecticut Unfair Trade Practices Act, General Statutes Sec. 42-110a et seq (CUTPA). In the complaint, the plaintiff seeks to recover treble damages and attorney’s fees, as well as other relief.

On December 28, 2023, a motion for default for failure to plead was granted against the defendant. See #103.86.

At the hearing, the plaintiff presented evidence of his claimed damages, including his testimony and exhibits. The defendant was not present at the hearing and did not present evidence.

II

Discussion

“A default admits the material facts that constitute a cause of action . . . and entry of default, when appropriately made, conclusively determines the liability of a defendant.” (Internal quotation marks omitted.) *Argentinis v. Fortuna*, 134 Conn. App. 538, 545-46, 39 A.3d 1207 (2012). “Upon default, the plaintiff ordinarily becomes entitled to recover nominal damages. . . . The right to further substantial damages remains to be established by the plaintiff at a hearing in damages.” (Citations omitted.) *Kloter v. Carabetta Enterprises, Inc.*, 186 Conn. 460, 464, 442

A.2d 63 (1982). “It does not follow that the plaintiff is entitled to a judgment for the full amount of the relief claimed. The plaintiff must still prove how much of the judgment prayed for in the complaint he is entitled to receive.” (Internal quotation marks omitted.) *Murray v. Taylor*, 65 Conn. App. 300, 335, 782 A.2d 702, cert. denied, 258 Conn. 928, 783 A.2d 1029 (2001).

“It is axiomatic that the burden of proving damages is on the party claiming them.” (Internal quotation marks omitted.) *Lawson v. Whitey’s Frame Shop*, 241 Conn. 678, 689, 697 A.2d 1137 (1997). “The determination of damages involves a question of fact. . . .” *Id.*, 690. “When damages are claimed, they are an essential element of the plaintiff’s proof and must be proved with reasonable certainty. . . .” (Internal quotation marks omitted.) *Argentinis v. Fortuna*, *supra*, 134 Conn. App. 549.

The plaintiff seeks treble damages under General Statutes Sec. 52-564. “[S]tatutory theft under . . . § 52-564 is synonymous with larceny [as defined in] General Statutes § 53a-119; . . . and the definition of larceny includes various fraudulent methods of taking property from its owner.” (Citation omitted; footnote omitted; internal quotation marks omitted.) *Stuart v. Stuart*, 297 Conn. 26, 41, 996 A.2d 259 (2010). “Pursuant to § 53a-119, [a] person commits larceny when, with intent to deprive another of property or to appropriate the same to himself or a third person, he wrongfully takes, obtains or [withholds] such property from [the] owner.” (Internal quotation marks omitted.) *Hi-Ho Tower, Inc. v. Com-Tronics, Inc.*, 255 Conn. 20, 44, 761 A.2d 1268 (2000).

Based on the entry of default, the defendant’s liability was established. The plaintiff has proved that he provided \$35,000.00 to the defendant, which the defendant converted.

The plaintiff also seeks to recover the additional \$10,000.00 provided for in the operating agreement as a return on his investment in the Company. There was no evidence presented to show that the project would have earned sufficient funds to provide a return on his investment.

“Under Connecticut law, damages may not be predicated on a contingency.”

Meadowbrook Ctr., Inc. v. Buchman, 149 Conn. App. 177, 193, 90 A.3d 219 (2014). “[W]hile damages need not be ascertainable with absolute exactness or mathematical precision . . .

recovery for speculative damages is precluded.” (Internal quotation marks omitted.) *Id.*, 191.

Treble damages for theft are awarded, in the amount of \$105,000.00.

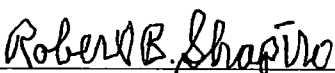
In addition, reasonable attorney’s fees are awarded under CUTPA, in the amount of \$3,247.53. See #107.

CONCLUSION

1. For the reasons stated above, judgment may enter for the plaintiff and against the defendant in the amount of \$108,247.53.

2. Costs to be assessed by the Clerk.

BY THE COURT



ROBERT B. SHAPIRO
JUDGE TRIAL REFEREE

Checklist for Clerk

Docket Number: HHD-CV23-6174888-S

Case Name: Oz Pariser v. Colin Chichakly

Memorandum of Decision dated: 6/11/24

File Sealed: Yes No X

Memo Sealed: Yes No X

This Memorandum of Decision may be released to the Reporter of Judicial Decisions for Publication XXXX

This Memorandum of Decision may NOT be released to the Reporter of Judicial Decisions for Publication

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 Civil/Family
 Housing
 Small Claims

☞ **HHD-CV23-6174888-S**

PARISER, OZ v. CHICHAKLY, COLIN

Prefix: HD3

Case Type: C90

File Date: 10/02/2023

Return Date: 10/31/2023

[Case Detail](#) | [Notices](#) | [History](#) | [Scheduled Court Dates](#) | [E-Services Login](#) | [Screen Section Help](#) | [Exhibits](#)

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Attorney/Firm Juris Number Look-up ☞

Case Look-up

By Party Name
 By Docket Number
 By Attorney/Firm Juris Number
 By Property Address

Information Updated as of: 06/11/2024

Case Information

Case Type: C90 - Contracts - All other

Court Location: HARTFORD JD

List Type: HEARINGS IN DAMAGES (HD)

Trial List Claim: 02/02/2024

Last Action Date: 05/23/2024 (The "last action date" is the date the information was entered in the system)

Short Calendar Look-up

By Court Location
 By Attorney/Firm Juris Number
 Motion to Seal or Close
 Calendar Notices

Court Events Look-up

By Date
 By Docket Number
 By Attorney/Firm Juris Number

Disposition Information

Disposition Date:

Disposition:

Judge or Magistrate:

Legal Notices

Pending Foreclosure Sales ☞

Understanding

Display of Case Information

Party & Appearance Information

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Party

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Party

P-01 OZ PARISER

Attorney: ☞ HOWARD KOHN SPRAGUE & FITZGERALD (028160) File Date: 10/02/2023
 PO BOX 261798
 HARTFORD , CT 061261798

Plaintiff

D-01 COLIN CHICHAKLY

Self-Rep: 20 MAPLE TERRACE
 THREE RIVERS, MA 01080

File Date: 10/31/2023

Defendant



Comments

Viewing Documents on Civil, Housing and Small Claims Cases:

If there is an ☞ in front of the docket number at the top of this page, then the file is electronic (paperless).

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- Documents, court orders and judicial notices in electronic (paperless) civil, housing and small claims cases with a return date on or after January 1, 2014 are available publicly over the internet.* For more information on what you can view in all cases, view the [Electronic Access to Court Documents Quick Card](#).
- For civil cases filed prior to 2014, court orders and judicial notices that are electronic are available publicly over the internet. Orders can be viewed by selecting the link to the order from the list below. Notices can be viewed by clicking the **Notices** tab above and selecting the link.*
- Documents, court orders and judicial notices in an electronic (paperless) file can be viewed at any judicial district courthouse during normal business hours.*
- Pleadings or other documents that are not electronic (paperless) can be viewed only during normal business hours at the Clerk's Office in the Judicial District where the case is located.*
- An Affidavit of Debt is not available publicly over the internet on small claims cases filed before October 16, 2017.*

*Any documents protected by law Or by court order that are Not open to the public cannot be viewed by the public online And can only be viewed in person at the clerk's office where the file is located by those authorized by law or court order to see them.

Motions / Pleadings / Documents / Case Status

<u>Entry No</u>	<u>File Date</u>	<u>Filed By</u>	<u>Description</u>	<u>Arguable</u>
	10/02/2023	P	SUMMONS ☞	