

# MCCLOSKEY, MINA & CUNNIFF, LLC

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Michael A. Cuniff \*\*  
*Of Counsel*

October 2, 2014

Eileen Bridges, Clerk  
Knox County Superior Court  
Knox County Courthouse  
62 Union Street  
Rockland, Maine 04841

**Re: United Mid-Coast Charities v. Russell Brace**

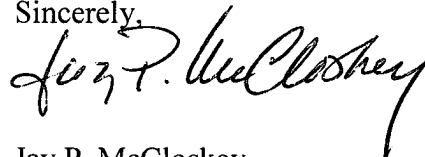
Dear Ms. Bridges:

Enclosed you will find for filing the following documents:

1. Complaint initiating the above-captioned civil action
2. Complaint Summary Sheet.
3. Filing Fee.

Thank you for your assistance in this matter.

Sincerely,



Jay P. McCloskey

**SUPERIOR COURT  
CIVIL ACTON  
DOCKET NO.**

Defendant

## Jury Trial Demanded

## NATURE OF THIS CIVIL ACTION

**PARTIES**

3. Defendant Russell Brace is the past President of UMCC, having served in that position from on or about 1997 to August 20, 2014.

### **FACTUAL ALLEGATIONS**

4. Defendant Brace was the volunteer President of UMCC from on or about 1997 to August 20, 2014.

5. As President of UMCC, Defendant Brace was responsible, among other duties, for the following: execution of the mission of UMCC including fund raising strategies to enhance revenue from major donors and foundations; develop an annual budget and facilitate the receipt and disbursement of UMMC funds; and ensure that the flow of funds permits UMCC to make continuous progress towards the achievement of its mission.

6. As President of UMCC, Defendant Brace had access to and received donation checks made payable to UMCC that were intended to be distributed to agencies in Knox and Waldo Counties that provided, among other things, children's services, medical care and education programs to people in need throughout Knox and Waldo Counties.

7. UMCC reasonably relied upon Defendant Brace, acting as UMCC's President, to faithfully and honestly carry out his duties in connection with the management and business affairs of UMCC.

8. Beginning in or about December 2001 and continuing to in or about August 2014, Defendant Brace stole and converted money belonging to UMCC by wrongfully taking donation checks made payable to UMCC and then using deposit stamps bearing the names of multiple depositors – including the Brace Management Group – to “endorse” and deposit these donation checks into his Brace Management

Group account at The First, N.A., a financial institution headquartered in Damariscotta Maine with a branch in Camden Maine.

9. Defendant Brace thereafter used the stolen and converted monies for his own benefit.

10. The amounts of the donation checks stolen and converted by Brace typically were in the amount of thousands of dollars, but on multiple occasions were in amounts of One Hundred Thousand (\$100,000) dollars or more, including on at least one occasion more than Two Hundred Thousand (\$200,000) dollars.

11. On or about September 25, 2014, Defendant Brace met with Stephen Crane, the current president of UMCC, and others and admitted that, without authorization or right, he stole donation checks made payable to UMCC and deposited them into his Brace Management Group account at The First. Defendant Brace also admitted that he thereafter used those monies for his personal use and benefit..

12. UMCC did not have any accounts at The First, N.A., at any time relevant to this cause of action.

13. Upon information and belief, from December 2001 to August 2014, Defendant Brace stole not less than Three Million Eight Hundred Three Thousand (\$3,803,000) dollars in the form of donations checks and deposited the checks into his account in the name of Brace Management Group at The First, N.A., in the manner described above.

**COUNT I**  
**(Conversion - Defendant Russell Brace)**

14. Plaintiff re-alleges and incorporates by reference herein each and every allegation contained in Paragraphs 1 through 13 above.

15. Plaintiff has a property interest in and right to possession of all donation checks made payable to UMCC. UMCC retains its property interest in and right to possession of funds it receives from these donation checks until such time as it distributes these funds to agencies in Knox and Waldo Counties that provide children's services, medical care and education programs to people in need.

16. By stealing, fraudulently endorsing and then depositing third party donation checks made payable to UMCC into his Brace Management Group account at The First, N.A., Defendant Brace wrongfully converted not less than Three Million Eight Hundred Three Thousand (\$3,803,000) dollars of Plaintiff's money.

17. In the meeting referenced in Paragraph 11 above, a demand was made to Defendant Brace for return of all the money stolen from UMCC and the Defendant has not done so.

18. The Plaintiff is entitled to the return of not less than Three Million Eight Hundred Three Thousand (\$ 3,803,000) dollars from Defendant Brace.

**COUNT II**  
**(Fraud - Defendant Russell Brace)**

19. Plaintiff re-alleges and incorporates by reference herein each and every allegation contained in Paragraphs 1 through 18 above.

20. Beginning in or about December 2001 and continuing to in or about August 2014, Defendant Brace stole donation checks payable to UMCC, falsely and fraudulently endorsed the said checks, and thereafter deposited the checks into his Brace Management Group account at The First, N.A., by the manner and means described in Paragraphs 1 through 18 of this Complaint,

21. Defendant Brace well knew that he was not authorized to endorse or utilize the aforementioned donation checks for his own benefit.

22. Defendant Brace repeatedly assured UMCC that he was faithfully following the organization's charitable mission and was distributing donations to agencies in Knox and Waldo Counties that provide children's services, medical care and education programs to people in need.

23. Plaintiff UMCC reasonably relied upon Defendant Brace's representations that he was faithfully and honestly attending to the management and business affairs of UMCC when it allowed him to have access to UMCC's bank accounts and donation checks made payable to UMCC.

24. Defendant Brace's conduct constituted fraud and resulted in a pecuniary loss to Plaintiffs of not less than Three Million Eight Hundred Three Thousand (\$3,803,000) dollars.

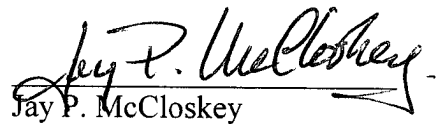
### **PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiff demands judgment against the Defendant Brace as follows:

a) On **COUNT I**, for an award of compensatory, consequential and punitive damages, costs of suit, and such other relief as the Court deems appropriate.

b) On **COUNT II**, for an award of compensatory, consequential and punitive damages, costs of suit, and such other relief as the Court deems appropriate.

Dated at Portland, Maine this 2<sup>nd</sup> day of October 2014.

A handwritten signature in black ink, reading "Jay P. McCloskey". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jay P. McCloskey

Bar Roll No. 1145

Alfred C. Frawley, IV

Bar Roll No. 4854

McCloskey, Mina & Cunniff, LLC

Attorneys for Plaintiff

12 City Center

Portland, Maine 04101

(207) 772-6805

# SUMMARY SHEET

M.R. Civ. P. 5(h)

This summary sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by the Maine Rules of Court or by law. This form is required for the use of the Clerk of Court for the purpose of initiating or updating the civil docket. (SEE ATTACHED INSTRUCTIONS)

I. County of Filing or District Court Jurisdiction: Knox

II. CAUSE OF ACTION (Cite the primary civil statutes under which you are filing, if any.)  
N/A - Fraud and Conversion

III. NATURE OF FILING

- ☒ Initial Complaint  
☐ Third-Party Complaint  
☐ Cross-Claim or Counterclaim  
☐ If Reinstated or Reopened case, give original Docket Number \_\_\_\_\_  
(If filing a second or subsequent Money Judgment Disclosure, give docket number of first disclosure)

IV. ☐ TITLE TO REAL ESTATE IS INVOLVED

V. MOST DEFINITIVE NATURE OF ACTION. (Place an X in one box only) Check the box that most closely describes your case.

GENERAL CIVIL (CV)

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Personal Injury Tort                      | <input type="checkbox"/> Contract                     | <input type="checkbox"/> Other Forfeitures/Property Libels |
| <input type="checkbox"/> Property Negligence                       | <input type="checkbox"/> Contract                     | <input type="checkbox"/> Land Use Enforcement (80K)        |
| <input type="checkbox"/> Auto Negligence                           | <input type="checkbox"/> Declaratory/Equitable Relief | <input type="checkbox"/> Administrative Warrant            |
| <input type="checkbox"/> Medical Malpractice                       | <input type="checkbox"/> General Injunctive Relief    | <input type="checkbox"/> HIV Testing                       |
| <input type="checkbox"/> Product Liability                         | <input type="checkbox"/> Declaratory Judgment         | <input type="checkbox"/> Arbitration Awards                |
| <input type="checkbox"/> Assault/Battery                           | <input type="checkbox"/> Other Equitable Relief       | <input type="checkbox"/> Appointment of Receiver           |
| <input type="checkbox"/> Domestic Torts                            | <input type="checkbox"/> Constitutional/Civil Rights  | <input type="checkbox"/> Shareholders' Derivative Actions  |
| <input type="checkbox"/> Other Negligence                          | <input type="checkbox"/> Constitutional/Civil Rights  | <input type="checkbox"/> Foreign Deposition                |
| <input type="checkbox"/> Other Personal Injury Tort                | <input type="checkbox"/> Statutory Actions            | <input type="checkbox"/> Pre-action Discovery              |
| <input type="checkbox"/> Non-Personal Injury Tort                  | <input type="checkbox"/> Unfair Trade Practices       | <input type="checkbox"/> Common Law Habeas Corpus          |
| <input type="checkbox"/> Libel/Defamation                          | <input type="checkbox"/> Freedom of Access            | <input type="checkbox"/> Prisoner Transfers                |
| <input type="checkbox"/> Auto Negligence                           | <input type="checkbox"/> Other Statutory Actions      | <input type="checkbox"/> Foreign Judgments                 |
| <input type="checkbox"/> Other Negligence                          | <input type="checkbox"/> Miscellaneous Civil          | <input type="checkbox"/> Minor Settlements                 |
| <input checked="" type="checkbox"/> Other Non-Personal Injury Tort | <input type="checkbox"/> Drug Forfeitures             | <input type="checkbox"/> Other Civil                       |

CHILD PROTECTIVE CUSTODY (PC)

- ☐ Non-DHS Protective Custody

SPECIAL ACTIONS (SA)

- ☐ Money Judgment  
☐ Money Judgment Request Disclosure

REAL ESTATE (RE)

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Title Actions  | <input type="checkbox"/> Foreclosure                      | <input type="checkbox"/> Misc. Real Estate  |
| <input type="checkbox"/> Quiet Title    | <input type="checkbox"/> Foreclosure (ADR exempt)         | <input type="checkbox"/> Equitable Remedies |
| <input type="checkbox"/> Eminent Domain | <input type="checkbox"/> Foreclosure (Diversion eligible) | <input type="checkbox"/> Mechanics Lien     |
| <input type="checkbox"/> Easements      | <input type="checkbox"/> Foreclosure - Other              | <input type="checkbox"/> Partition          |
| <input type="checkbox"/> Boundaries     |   | <input type="checkbox"/> Adverse Possession |
|   |   | <input type="checkbox"/> Nuisance           |
|   |   | <input type="checkbox"/> Abandoned Roads    |
|   |   | <input type="checkbox"/> Trespass           |
|   |   | <input type="checkbox"/> Other Real Estate  |

APPEALS (AP) (To be filed in Superior Court) (ADR exempt)

- ☐ Governmental Body (80B) ☐ Administrative Agency (80C) ☐ Other Appeals

VI. M. R. Civ. P. 16B Alternative Dispute Resolution (ADR):

- ☐ I certify that pursuant to M. R. Civ. P. 16B(b), this case is exempt from a required ADR process because:
- ☐ It falls within an exemption listed above (i.e., an appeal or an action for non-payment of a note in a secured transaction).
  - ☐ The plaintiff or defendant is incarcerated in a local, state or federal facility.
  - ☐ The parties have participated in a statutory prelitigation screening process with \_\_\_\_\_
  - ☐ The parties have participated in a formal ADR process with \_\_\_\_\_ (name of neutral) on \_\_\_\_\_ (date).
  - ☐ This is a Personal Injury action in which the plaintiff's likely damages will not exceed \$30,000, and the plaintiff requests an exemption from ADR.



VII. (a) ☒ PLAINTIFFS (Name & Address including county)  
or ☐ Third-Party, ☐ Counterclaim or Cross-Claim Plaintiffs  
☐ The plaintiff is a prisoner in a local, state or federal facility.

United Mid-Coast Charities  
21 Elm Street  
Camden, ME 04843  
Knox County

(b) Attorneys (Name, Bar number, Firm name, Address, Telephone Number) If all counsel listed do NOT represent all plaintiffs,  
specify who the listed attorney(s) represent.

Jay P. McCloskey, Bar # 1145  
12 City Center  
Portland, ME 04101  
(207)772-6805

VIII. (a) ☒ DEFENDANTS (Name & Address including county)  
and/or ☐ Third-Party, ☐ Counterclaim or ☐ Cross-Claim Defendants  
☐ The defendant is a prisoner in a local, state or federal facility.

Russell Brace  
29 Spruce Street  
Rockport, ME 04856  
Knox County

(b) Attorneys (Name, Bar number, Firm name, Address, Telephone Number)  
(If known)

If all counsel listed do NOT represent all  
defendants, specify who the listed attorney(s)

Peter DeTroy, Bar # 402  
Norman Hanson & DeTroy, LLC  
Two Canal Plaza, PO Box 4600  
Portland, ME 04112  
(207)774-7000

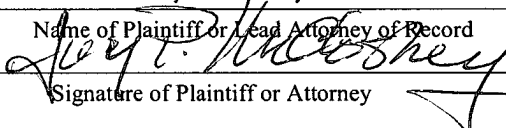
IX. (a) ☐ PARTIES OF INTEREST (Name & Address including county)

(b) Attorneys (Name, Bar number, Firm name, Address, Telephone Number)  
(If known)

If all counsel listed do NOT represent all  
defendants, specify who the listed attorney(s)

IX. RELATED CASE(S) IF ANY \_\_\_\_\_  
Assigned Judge/Justice \_\_\_\_\_ Docket Number \_\_\_\_\_

Date: October 2, 2014

Jay P. McCloskey  
Name of Plaintiff or Lead Attorney of Record  
  
Signature of Plaintiff or Attorney