

**IN THE COUNTY COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT, IN AND
FOR BROWARD COUNTY, FLORIDA**

BRIANA VANESSA WHATLEY,

CASE NO.:

Plaintiff,

DIVISION: Small Claims

v.

INCUBATE FOUNDATION INC.,

a Florida Not For Profit Corporation, and

JAMES T. FISHBACK, individually,

Defendants.

STATEMENT OF CLAIM

Plaintiff, BRIANA VANESSA WHATLEY, by and through her undersigned counsel, sues
Defendants, INCUBATE FOUNDATION INC. (doing business as Incubate Debate), and JAMES
T. FISHBACK, individually, and alleges:

GENERAL ALLEGATIONS

1. This is an action for damages that do not exceed \$8,000, exclusive of costs, interest, and attorney's fees, brought pursuant to the Florida Small Claims Rules.
2. Plaintiff, Briana Vanessa Whatley, is a resident of Broward County, Florida.
3. Defendant, INCUBATE FOUNDATION INC., is an active Florida Not For Profit Corporation with its principal place of business located at 115 SW Pinckney Street, Madison, FL 32340.
4. Defendant, JAMES T. FISHBACK, is an individual, a resident of the State of Florida, and at all times material herein was the President and a Director of Defendant, INCUBATE FOUNDATION INC. Defendant, JAMES T. FISHBACK, is subject to the jurisdiction of this

Court because he engaged in tortious conduct and fraudulent misrepresentations directed at Plaintiff within Broward County, Florida.

5. Venue is proper in Broward County, Florida, because the contractual obligations were entered into, and the substantial breaches of contract and fraudulent misrepresentations complained of herein occurred, within Broward County (including performance at competitive events and digital communications directed to Plaintiff in Broward County).

FACTUAL BACKGROUND

6. Plaintiff was a highly successful competitive debater within the organizational structure managed by Defendants, INCUBATE FOUNDATION INC. and JAMES T. FISHBACK.

7. Over the course of the 2023 and 2024 debate seasons, Defendant, JAMES T. FISHBACK, acting in his personal capacity and as President of Defendant, INCUBATE FOUNDATION INC., personally induced Plaintiff to attend tournaments and maintain high-level performance by utilizing the promise of substantial academic scholarships as a direct incentive.

8. Relying directly on the personal inducements, promises, and financial representations made by Defendant, JAMES T. FISHBACK—who would personally contact the Plaintiff through calls and texts encouraging her to remain active in the organization, participate at tournaments, and take on leadership roles in the organization—Plaintiff expended significant time, effort, and resources to prepare for, attend, and compete in the organization's regional and national circuits.

9. As a direct result of Plaintiff's reliance on these personal inducements and active encouragement from Defendant, JAMES T. FISHBACK, Plaintiff achieved top-tier competitive results, and Defendants, INCUBATE FOUNDATION INC. and JAMES T. FISHBACK, collectively awarded Plaintiff a cumulative total of \$11,000 in academic scholarship funds across

three specific achievements: \$500 for being named the Incubate South Incubator of the Year on March 4, 2023; \$500 for winning the title of Incubate Fall SE Champion 2024; and \$10,000 for winning the Incubate Debate National Championship 2024.

10. Per the written terms provided by the authorized Program Director of Defendant, INCUBATE FOUNDATION INC., on March 28, 2023, the scholarship funds were expressly contractually promised to be paid to Plaintiff "on the day of [her] high school graduation". A true and correct copy of this official award letter is attached hereto as Exhibit A.

11. Plaintiff graduated from high school on May 30, 2025, satisfying all conditions precedent to receive the full \$11,000 disbursement. True and correct copies of written email correspondence confirming graduation and tracking the complete \$11,000 balance are attached hereto as Exhibit B.

12. Following her graduation, Plaintiff repeatedly requested the promised funds. Defendant, JAMES T. FISHBACK, acting individually and on behalf of Defendant, INCUBATE FOUNDATION INC., personally evaded and defrauded Plaintiff by initially ignoring communications, later blaming a terminated employee for the written award terms, falsely claiming an unwritten "installment policy," and delaying payment for months. True and correct copies of text communications between Plaintiff and Defendant, JAMES T. FISHBACK, detailing these delays are attached hereto as Exhibit C.

13. On December 15, 2025, Defendant, INCUBATE FOUNDATION INC., partially disbursed a single installment of \$3,000 to Plaintiff via Zelle through an agent/officer of the corporation, Alex Mungia, following a direct, written order from Defendant, JAMES T.

FISHBACK. A true and correct copy of the text confirmation from Defendant, JAMES T. FISHBACK, and the accompanying transaction receipt is attached hereto as Exhibit D.

14. By making a partial payment of \$3,000 toward the scholarship obligation, Defendant acknowledged the existence and validity of the contractual obligation and ratified its promise to pay Plaintiff the remaining balance.

15. Defendants, INCUBATE FOUNDATION INC. and JAMES T. FISHBACK, scheduled the next critical installment for February 1, 2026.

16. All conditions precedent required to be performed by Plaintiff under the terms of the agreement have occurred, have been met, or have been waived by Defendants, INCUBATE FOUNDATION INC. and JAMES T. FISHBACK.

17. Despite Plaintiff providing explicit proof of undergraduate enrollment as demanded personally by both Defendants, INCUBATE FOUNDATION INC. and JAMES T. FISHBACK, individually, have completely ceased communication, leaving an unpaid and outstanding balance of \$8,000 contractually owed to Plaintiff. The text transmissions detailing the February 2026 delinquency are included within Exhibit C and Exhibit D.

COUNT I: BREACH OF CONTRACT

Plaintiff realleges and incorporates paragraphs 1 through 16 as if fully set forth herein.

18. Defendant, INCUBATE FOUNDATION INC., extended a clear offer to award a total of \$11,000 in academic scholarships upon Plaintiff achieving specific competitive milestones and graduating high school.

19. Defendant offered a scholarship and Plaintiff performed pursuant to the terms of the Scholarship requirements.

20. Plaintiff fully executed her performance under the contract by securing the competitive wins and graduating high school, thereby transforming the scholarship promises of Defendant, INCUBATE FOUNDATION INC., into a binding, non-revocable contractual debt.

21. Plaintiff accepted the offer of Defendant, INCUBATE FOUNDATION INC., through her competitive participation, winning the specified championships, and successfully graduating high school on May 30, 2025.

22. A valid, binding contract existed between Plaintiff and Defendant, INCUBATE FOUNDATION INC., as evidenced by the March 28, 2023 award letter (Exhibit A), subsequent written tracking confirmations (Exhibit B), and subsequent written modifications from the corporation's President, Defendant, JAMES T. FISHBACK (Exhibit C).

23. Defendant, INCUBATE FOUNDATION INC., breached the contract by failing to disburse the full \$11,000 upon graduation, and further breached the modified timeline by failing to disburse the scheduled February 2026 installment.

24. As a direct and proximate result of the breach by Defendant, INCUBATE FOUNDATION INC., Plaintiff has suffered damages in the principal amount of \$8,000, plus applicable pre-judgment interest and court costs.

WHEREFORE, Plaintiff, Briana Vanessa Whatley, respectfully requests judgment against Defendant, INCUBATE FOUNDATION INC., for damages in the principal amount of \$8,000, plus court costs, interest, reasonable attorney's fees as allowed by law, and any further relief this Court deems just and proper.

COUNT II: FRAUD IN THE INDUCEMENT/PROMISSORY FRAUD

Plaintiff realleges and incorporates paragraphs 1 through 16 as if fully set forth herein.

25. Defendant, JAMES T. FISHBACK, acting both in his personal capacity and as the authorized representative of Defendant, INCUBATE FOUNDATION INC., made multiple material, false representations and personal inducements directly to Plaintiff via SMS text transmissions (Exhibit C and Exhibit D) between August 2025 and February 2026 regarding the availability, securing, and guaranteed delivery of her scholarship funds.

26. Specifically, Defendant, JAMES T. FISHBACK, personally and falsely represented that "the scholarship funds were ready to be sent," that Defendants "stand ready to send those scholarship funds," and explicitly promised that installments would be paid out on fixed schedules (such as February 1, 2026) if Plaintiff submitted bank details and proof of enrollment.

27. Defendants, INCUBATE FOUNDATION INC. and JAMES T. FISHBACK, knew these statements were false at the time they were made or made them without knowledge of their truth or falsity, as evidenced by the subsequent evasion, intentional non-payment, and leaving Plaintiff "on read" immediately upon receiving her private documentation (Exhibit C).

28. Plaintiff reasonably and detrimentally relied on the false promises and personal inducements of Defendant, JAMES T. FISHBACK, by postponing legal remedies, turning over sensitive verification documentation, and restructuring her personal and educational financial planning around expectations that were never met.

29. As a direct and proximate result of the fraudulent misrepresentations committed by both Defendant, INCUBATE FOUNDATION INC. and Defendant, JAMES T. FISHBACK,

individually, Plaintiff has suffered severe financial injury and out-of-pocket damages within the jurisdictional limits of this Court.

WHEREFORE, Plaintiff, Briana Vanessa Whatley, respectfully requests judgment against Defendants, INCUBATE FOUNDATION INC. and JAMES T. FISHBACK, jointly and severally, for compensatory damages, court costs, interest, reasonable attorney's fees as allowed by law, and any such further relief as this Court deems just and proper.

Respectfully submitted on this 20th day of July 2026.

RALPH KENOL & ASSOCIATES, P.A.

1940 Harrison Street Suite 304

Hollywood, FL 33020

Tel: (754) 816-8058

Fax: (954) 241-6978

Service email: rk@ralphkenolpa.com

By: s/Ralph Kenol
Ralph Kenol| FBN: 487831

EXHIBIT A



Tuesday, March 28, 2023

Dear Briana Whatley,

Congratulations on being the Incubate.South Incubator of the Year nominee at the Incubate Debate tournament on March 4, 2023, at Sawgrass Springs Middle School! Your dedication, hard work, and exceptional skills have truly paid off, and we couldn't be prouder of your achievements.

In recognition of your extraordinary work throughout the year, it is our pleasure to inform you that you have been awarded a \$500 scholarship, courtesy of Incubate Debate. This scholarship will be paid to you on the day of your high school graduation, as a token of our support towards future endeavors, whatever they may be.

We at Incubate are passionate about nurturing the potential of young minds like yours, and you truly embody the spirit of our mission. We believe that this scholarship will not only provide financial assistance but will also serve as an encouragement for you to continue honing your skills and pursuing your passions.

Once again, congratulations on your outstanding achievement, Briana! We are excited to be part of your journey towards success and look forward to seeing what the future holds for you.

At your earliest convenience, please reply to this letter with your high school graduation date (month and year) and home address so we know when and where to remit your scholarship.

Should you have any questions or concerns, please do not hesitate to reach out to me at keinah@incubatedebate.org.

Warm regards,

A handwritten signature in black ink, appearing to read "Keinah".

Keinah Lexia Fort
Program Director, Incubate Debate

EXHIBIT B



Briana V. Whatley <brianawhatley2016@gmail.com>

Scholarship Inquiry - Briana Whatley

Briana V. Whatley <brianawhatley2016@gmail.com>

Wed, Jun 18, 2025 at 1:36 PM

To: hi@incubatedebate.org

Cc: Mommy <cbenitez283@yahoo.com>

Dear Incubate Debate Team,

I hope this email finds you well.

Participating in Incubate Debate was an invaluable and memorable experience. I am writing to follow up on the scholarship funds I was honored to win during the 2024 and 2023 debate season.

For your records, the awards total \$11,000 and are comprised of the following:

- **Incubate Debate National Championship 2024: \$10,000**
- **Incubate.South Incubator of the Year: \$500**
- **Incubate Fall SE Champion 2024: \$500**

My understanding was that these funds would be ready for disbursement following my high school graduation on May 30, 2025.

Could you please advise on the next steps for processing this payment? Please let me know if there is any documentation or further information I can provide.

Thank you for your time and for the incredible opportunities you provide for students.

Best regards,

Briana Vanessa Whatley
c: 305 613 4225

 **Scholarship Letter Briana Whatley.pdf**
95K



Briana V. Whatley <brianawhatley2016@gmail.com>

Scholarship Inquiry - Briana Whatley

Briana V. Whatley <brianawhatley2016@gmail.com>

Thu, Jun 26, 2025 at 9:33 AM

To: James Fishback <james@incubatedebate.org>

Bcc: Mommy <cbenitez283@yahoo.com>

Dear Mr. Fishback,

I hope this email finds you well.

I am writing to follow up on my previous email from June 18, 2025 regarding the disbursement of the scholarship funds I was awarded during the 2023 and 2024 debate seasons.

To recap, the total award amount is \$11,000, from the following wins:

- **\$10,000** - Incubate Debate National Championship 2024
- **\$500** - Incubate South Incubator of the Year
- **\$500** - Incubate Fall SE Champion 2024

My understanding was that these funds would be processed for disbursement following my high school graduation, which was on May 30, 2025.

I would be very grateful for an update on the status of these funds. Could you please advise on the timeline and the necessary steps to facilitate the payment? I am, of course, happy to provide any documentation or further information needed from my end.

Thank you for your time and for the incredible, formative experiences Incubate Debate provides for students.

Best regards,

Briana Vanessa Whatley
c: 305 613 4225

 **Scholarship Letter Briana Whatley.pdf**
95K

EXHIBIT C

iMessage
Sat, Aug 23 at 4:36 PM

Hi, my lawyer informed me that the scholarships are to be disbursed through installments. When was that the case?

That has always been the case! Scholarships above \$10k are paid out in semester increments

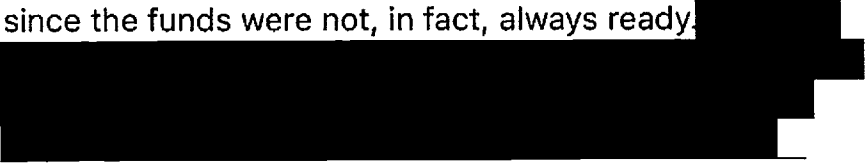
Your scholarship is ready to be paid out. I didn't even see this lawyer letter until this afternoon. I've been traveling

Thu, Sep 25 at 1:24 PM

Hi Mr. Fishback, I want to thank you again for your everything you and Incubate have done for me. I also want to be clear that I really don't want money to get in the way of our relationship or turn into something we're fighting over. I wasn't made aware of the scholarship being paid in increments, and this process has dragged on longer than I expected. At this point, I'd really appreciate if we could resolve it by having the scholarship disbursed in full, rather than installments. My only goal is to have this settled so we can move forward on good terms.

Hi! Thank you for reaching out. It was disappointing that a lawyer get involved and threatened to sue Incubate Debate over what has always been our policy of scholarship installments. When I called him a month ago, he told me he'd share your transfer information to send the money. I haven't heard back. We stand ready to send those scholarship funds. We have been ready. In fact, I texted you 2 months ago about it.

I want to clarify a few things. I actually waited two months after my graduation date to follow up about my scholarship because it felt like it had been forgotten by Incubate. When I finally reached out, two of my emails went unanswered, and then I was told that Incubate didn't have the funds available due to legal disputes. I then waited another month with no updates before feeling I had no choice but to get legal support to ensure my scholarship was secured, since the funds were not, in fact, always ready.



██████ I'm not the bad guy here trying to jeopardize Incubate, and I don't think it's fair to be made out as if I did something wrong by outsourcing help. I also want to mention that I've never been informed of an installment policy before. Unless you can recall a time when this was explained to me, I was understandably confused when you told my lawyer about installments after having offered to send me the full scholarship in your earlier text. I had plans for this scholarship that I've had to completely abandon because it wasn't awarded to me on the day of my graduation back in May, as I had expected. I just want to get this matter resolved.

Briana, I don't monitor the Incubate email. We had the funds available and I offered to send them to you before you paid a lawyer who threatened me with a "federal lawsuit."

I did not write the letter regarding your scholarship award

I actually hadn't seen it until your lawyer sent it to me

The individual who wrote it was fired from Incubate Debate

She is no longer employed here

Edited

Despite all of that, before your lawyer had reached out to me, I texted you and asked you where to send the funds

And, to this day, I have not gotten a response from you or your lawyer

I am asking you as I did over a month ago: where would you like me to send your scholarship funds?

2 Replies

From my perspective, I reached out multiple times without resolution, was told at one point that funds weren't available, and then received no updates for weeks. That left me feeling like I had no choice but to seek outside help, even though it wasn't something I wanted or could easily afford. It doesn't really matter who originally wrote the scholarship letter — it was a promise made by Incubate as an organization, and I trusted that commitment. When you texted me offering to send the funds, I didn't want to

you texted me offering to send the funds, I didn't want to respond until I could talk to my lawyer because I thought you were responding to the letter he sent a week prior to your text. It was never about suing Incubate — it was about finally being heard and taken seriously after so many attempts on my part. It's taken me a lot to even confront you about this myself, and now I feel like I'm being made out to be in the wrong for simply trying to receive something that was promised to me. I'd appreciate it if you would just try to look at the situation from my perspective.

I am asking you as I did over a month ago: where would you like me to send your scholarship funds?

2 Replies

I'd prefer the scholarship be sent via direct deposit to my Chase checking account. The account number is [REDACTED], and the routing number is [REDACTED]

You can always call me anytime

I hadn't seen that letter until a month after it was sent

I was traveling and not at home

I'm sorry this happened

But we are going to make this right ok?

I appreciate you explaining everything. I don't want money to ruin our relationship. Thank you for wanting to make it right.

You are a star!

Not a fighter?

No!!

Star > Fighter

Fri, Sep 26 at 1:49 PM

Pls call me after 5p today!

Mon, Oct 13 at 11:00 AM

Update?

Hi! What is the full legal name on that account at Chase?

1 Reply

We just need to double verify

Mon, Oct 13 at 12:22 PM

Hi! What is the full legal name on that account at Chase?

Briana Whatley

Wed, Nov 26 at 7:23 PM

Hi! Could you resend your bank info? I totally dropped the ball on this.

1 Reply

I am asking you as I did over a month ago: where would you like me to send your scholarship funds?

2 Replies

^

Hi! Could you resend your bank info? I totally dropped the ball on this.

No worries



^

Lol

Oh here - The account number is [REDACTED], and the routing number is [REDACTED]. It's in my name, Briana Whatley

Thank you!

Happy Thanksgiving!

Happy Thanksgiving!



ALEX@FISHBACK2026.COM

You're invited

Thu, Jan 8 at 4:00 PM

I won't be able to attend, but I appreciate the invitation. I wish you well with the event!

Mon, Feb 16 at 11:34 AM

Good morning. Please call me in regard to the scholarship by 5 PM today.

Pls call Alex

He didn't answer

He will call you back

What's the issue?

I haven't heard back from anyone about the disbursement that was scheduled for Feb 1st

Mon, Feb 16 at 5:01 PM

Hi. Is Alex going to give me a call back today?

Wed, Feb 18 at 10:37 AM

Good morning Mr. Fishback, I hope you're doing well. Please ask Alex to send my scholarship installment today.

Have you sent him your proof of enrollment yet?

No, he hasn't reached out to ask for that. I'll text him with my proof now

Please do

Sentl

Sent:

Fri, Feb 20 at 12:17 PM

Hello? It's been sent to Alex. I've been left on read.

Delivered

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EXHIBIT D

iMessage
Fri, Dec 12 at 4:45 PM

James Fishback



Briana, good catching up yesterday. To confirm, Alex will send the first installment of your Incu-scholarship via Zelle to this phone number right?

Mon, Dec 15 at 9:16 AM

Good morning. Yes, please send the installments via Zelle to this phone number.

Mon, Dec 15 at 3:30 PM

James Fishback



Alex, please send Briana her \$3,000 scholarship payment installment via Zelle.

Alex Mungia

🔔 Briana Whatley received your money.

Amount
3,000.00

End on
Dec 15, 2025

Status
Delivered

Pay from

Message to recipient
Scholarship

Transaction number



Sent

Mon, Feb 2 at 10:19 AM

Hello, I'm following up on my scholarship installment that was scheduled to be sent on February 1. I have not received it yet and wanted to check on the status. Thank you.

James Fishback

Feb 1 was a Sunday...

We don't work on Sundays...



Good morning to you too

Tue, Feb 3 at 2:31 PM

Understood. I wanted to follow up so it doesn't slip through the cracks and so I can plan accordingly.

Thu, Feb 5 at 10:22 AM

Good morning. Update?

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