

No. 01-23-00618-CV

*In the First Court of Appeals
Houston, Texas*

GREAT VALUE STORAGE, LLC AND WORLD CLASS CAPITAL GROUP, LLC,
Appellants,

v.

PRINCETON CAPITAL CORPORATION,
Appellee.

Appeal from Cause No. 2019-18855
165th District Court of Harris County, Texas

RECEIVER'S POST-ARGUMENT SUPPLEMENT

SETH KRETZER
SBN: 24043764
917 Franklin Street
Sixth Floor
Houston, TX 77002
(713) 775-3050
seth@kretzerfirm.com

RECEIVER

JAMES W. VOLBERDING
SBN: 00786313
Kretzer & Volberding, P.C.
110 N. College Avenue, Suite 1850
Tyler, TX 75702
(903) 597-6622
james@volberdinglawfirm.com

COUNSEL FOR RECEIVER

TO THE HONORABLE FIRST COURT OF APPEALS:

At oral argument, Chief Justice Adams asked Mr. Kretzer whether the language on which the award of 25% fees was affirmed by this Court in *Roberts v. Abraham Watkins* was the same as the fees provision in the current appeal.¹ Mr. Kretzer responded he was “99% sure” but did not have a copy of that order in front of him.

The contingency fee award language in *Roberts* is identical to that of the present case.² In *Roberts* this Court quoted the fees provision as follows:

The trial court also stated in its order that the receiver’s fee was **25% ‘of all gross proceeds that came into the receiver’s possession**, not to exceed 25% of the balance due on the judgment, plus any out-of-pocket expenses incurred by the Receiver in his scope as a receiver in this case,’ and the trial court made an affirmative finding that this was ‘a fair, reasonable and necessary fee for the Receiver.’ Finally, the trial court found that ‘[a]ll Receiver’s fees will be taxed as costs against the Defendant [Roberts].’³

As in the present case, Roberts argued that since he had paid the judgment directly to the judgment creditor, bypassing the *custodia legis* receivership estate, he did not owe receivership fees. The concept of *custodia legis* is the foundational principle of receivership doctrine.⁴ What matters is not the physical location of the property, or

¹ See *Roberts v. Abraham, Watkins, Nichols, Sorrels, Agosto & Friend*, no. 01-19-00622-CV, 2020 Tex. App. LEXIS 10137 (Tex. App.—Houston [1st Dist.] Sep. 10, 2020, no pet. 2020).

² The order appears in Clerk’s Record in No. 01-19-00622-CV at CR 126-31.

³ *Roberts*, 2020 Tex. App. LEXIS 10137 at *2 (emphasis added).

⁴ *First Southern Properties, Inc. v. Vallone*, 533 S.W.2d 339, 343 (Tex. 1976); *T.H. Neel v. W.L. Fuller*, 557 S.W.2d 73, 76 (Tex. 1977); *Beaumont Bank, N.A. v. Buller*, 806 S.W.2d 223, 226 (Tex. 1991) (each cited in *Receiver’s Sept. 10, 2023 Motion to Dismiss for Want of Jurisdiction*, No. 01-23-00618-CV, at 77-78 & n 70-73); *McE Endavors LLC v. Air Voice Wireless LLC*, * 12-13 No. 01-18-00852-CV & 01-19-00180-CV, 2020 Tex. App. LEXIS 6906, 2020 WL 5047902 (Tex. App.—Houston [1st Dist.] Aug.

through which financial accounts the money passed, but the fact that such funds necessarily belonged to the *custodia legis* receivership estate because they moved by direction of judgment debtor. This Court observed, “He provided a cashier’s check directly to Abraham Watkins for \$107,473.48.”⁵ This Court dismissed the custodial challenge in a one-sentence footnote: “It appears that Abraham Watkins subsequently turned the money over to the receiver.”⁶ Affirming the 25% receiver’s fee, this Court did not indicate that the only reason that Roberts’s trick did not succeed was that the judgment creditor sent the check to the Receiver.

Roberts is not new authority cited by Receiver. Receiver’s March 25, 2024 response brief explained:

Judge Palmer based her award of receiver fees on the full amount received by Abraham Watkins, the judgment creditor. The only difference between Roberts and here is that ‘Abraham Watkins subsequently turned the money over to the receiver.’⁷

27, 2020, no pet.) (“During the pendency of a receivership, the property held in *custodia legis* is free from interference, with the exclusive custody and possession that the court assumes over it.”); *see also* Receiver’s Mar. 25, 2024 Brief of the Receiver to the Brief of GVS and WCCG, No. 01-23-00618-CV, at 11-12 (discussion of *custodia legis*).

⁵ *Roberts*, 2020 Tex. App. LEXIS 10137 at *3-4.

⁶ *Id.* at 4, n.2.

⁷ *Response Brief of the Receiver to the Brief of GVS and WCCG*, No. 01-23-00618-CV (Mar. 25, 2024), at 36-37.

And this is because for over a hundred years, Texas receivership doctrine has been anchored in the foundation of “constructive custody” and “constructive control,” known as *custodia legis*.⁸

Respectfully submitted this 29th day of May 2025,

/s/ Seth Kretzer

SETH KRETZER
SBN: 24043764

917 Franklin Street
Sixth Floor
Houston, TX 77002
(713) 775-3050 (office)
Email: seth@kretzerfirm.com

RECEIVER

⁸ *Riesner v. Gulf, C. & S. F. R. Co.*, 89 Tex. 656, 660 (1896) (“restraining order enjoining the defendant company from delivering possession [of the trust property to any person except a receiver appointed by this court in this cause, the court acquired **constructive possession...**” (emphasis added); *see also* *McE Endeavours LLC v. Air Voice Wireless LLC*, Nos. 01-18-00852-CV, 01-19-00180-CV, 2020 Tex. App. LEXIS 6906, *20 (Tex. App.—Houston [1st Dist.] Aug. 27, 2020, no pet.) (“The Air Voice suit was property subject to the turnover and receivership order and thus was in county court’s **constructive custody**. And because the receiver had negotiated the Air Voice settlement agreement, the county court that appointed her had the authority to approve it and require its implementation.”) (emphasis added); *Mitchell v. Turbine Res. Unlimited, Inc.*, 523 S.W.3d 189, 192 (Tex. App.—Houston [14th Dist.] 2017, pet. denied (“The court gave the receiver ‘full power and authority to take possession of all non-exempt property of every defendant that is in any defendant’s actual or **constructive possession** or control.’”) (emphasis added); *Gillet v. ZUPT, LLC*, 523 S.W.3d 749, 755 (Tex. App.—Houston [14th Dist.] 2017, no pet.) (“In its order, the trial court vested the receiver with authority: to take possession of and at Receiver’s discretion liquidate any non-exempt property, real and personal, of JOEL GILLET and ZUPT, LLC, including, but not limited to: (1) all documents or records, including financial records, related to such property that is in the actual or **constructive possession...**”) (emphasis added); *Klinek v. LuxeYard, Inc.*, 672 S.W.3d 830, 835 (Tex. App.—Houston [14th Dist.] 2023, no pet. h.) (“[T]he court ordered Klinek to disclose to the receiver all his non-exempt assets and authorized the receiver to take possession of and/or levy all of Klinek’s non-exempt property in his actual or **constructive possession.**”) (emphasis added).

/s/ *James W. Volberding*

By: _____

JAMES W. VOLBERDING

SBN: 00786313

KRETZER & VOLBERDING P.C.

Plaza Tower

110 North College Avenue

Suite 1850

Tyler, Texas 75702

(903) 597-6622 (office)

(903) 913-7130 (fax)

email: james@volberdinglawfirm.com

ATTORNEY FOR RECEIVER

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document has been delivered this May 29, 2025 (by court electronic filing only) to all counsel of record in cause 01-23-00618-CV.

/s/ *James W. Volberding*

JAMES W. VOLBERDING

CERTIFICATE OF COMPLIANCE

As required by Texas Rule of Appellate Procedure 9.4, I certify that the number of words in this pleading is 932, measured from page one through the conclusion, according to Word. This pleading was prepared with Microsoft Word for Apple, version 16.51.

/s/ *James W. Volberding*

JAMES W. VOLBERDING

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

James Volberding

Bar No. 00786313

jamesvolberding@gmail.com

Envelope ID: 101393637

Filing Code Description: Response

Filing Description: RECEIVER'S POST-ARGUMENT SUPPLEMENT

Status as of 5/29/2025 3:04 PM CST

Associated Case Party: Seth Kretzer, Receiver

Name	BarNumber	Email	TimestampSubmitted	Status
Dana Lipp	24050935	dlipp@lipplegal.com	5/29/2025 2:47:33 PM	SENT
Seth Kretzer		seth@kretzerfirm.com	5/29/2025 2:47:33 PM	SENT
James Volberding		jamesvolberding@gmail.com	5/29/2025 2:47:33 PM	SENT
Ann Kennon		akennonassistant@gmail.com	5/29/2025 2:47:33 PM	SENT

Associated Case Party: World Class Capital Group, LLC

Name	BarNumber	Email	TimestampSubmitted	Status
Greg R. Wehrer		greg.wehrer@squirepb.com	5/29/2025 2:47:33 PM	SENT
Amanda DoddsPrice		amanda.price@squirepb.com	5/29/2025 2:47:33 PM	SENT
Trevor Kehrer		trevor.kehrer@squirepb.com	5/29/2025 2:47:33 PM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Abigail Noebels	24083578	anoebels@susmangodfrey.com	5/29/2025 2:47:33 PM	SENT
Greg Wehrer		greg.wehrer@squirepb.com	5/29/2025 2:47:33 PM	SENT
Manfred Sternberg		Manfred@msternberg.com	5/29/2025 2:47:33 PM	SENT
Brian Elliott		brian@scalefirm.com	5/29/2025 2:47:33 PM	SENT
Amanda Prince		amanda.price@squirepb.com	5/29/2025 2:47:33 PM	SENT
Jeremy Gaston		jgaston@hcgllp.com	5/29/2025 2:47:33 PM	SENT