

FJM

ADDITIONAL ORIGINAL RETURN DATE 4/19/23  
RELIEF oUm

At an IAS Part 41 of the Supreme Court of the State of New York, held in and for the County of Nassau, at the courthouse, 100 Supreme Court Drive, Mineola NY 11501, on the 4<sup>th</sup> day of April, 2023

PRESENT:

Hon.: Felice J. Muraco  
J.S.C.

CLOUDFUND LLC,

Plaintiff,

-against-

C & J ELECTRICAL CONSTRUCTION INC AND  
CHARLES WAYNE HENNIG JR,

Defendants:

Index No 612768/2022

Order to Show Cause

Upon reading and filing the affidavit of Charles Hennig demonstrating that in aid of enforcement of its judgment entered in this court the plaintiff garnished \$193,594.21 from the bank accounts of defendants maintained out of state and known by plaintiff and its attorney and City Marshal Stephen W. Biegel to have been an out of state bank account, and the courts of this State all holding that an out of state bank account may neither be restrained nor garnished under the *separate entity* rule, and CPLR 5240 having been required by the Court of Appeals to be the vehicle

to redress the illegal garnishment and empowers the Court to regulate all enforcement of the judgment and provide restitution,

Let, the plaintiff, CLOUDFUND LLC, and its attorney, and New York City Marshal Stephen W. Biegel, show cause at IAS Part 41, of the Supreme Court of the State of New York, held in and for the County of Nassau, at the courthouse, 100 Supreme Court Drive, Mineola NY 11501,

on the 19<sup>th</sup> day of April, 2023, at 9:30 a.m., or as soon thereafter as counsel can be heard, why an Order should not be entered herein [1] vacating any restraint or garnishment of the plaintiff, in aid of enforcement of its judgment, of defendants' bank accounts located and maintained outside of New York State; [2] prohibiting plaintiff from any future restraint or garnishment, in aid of enforcement of plaintiff's judgment, of any out of state bank account of defendants; [3] ordering plaintiff, its attorney, and the City Marshal, to pay restitution of the \$193,594.21 previously garnished from defendants' out of state bank account,

on the ground alleged that under New York's separate entry rule a judgment may not be enforced by restraints or garnishments of bank accounts maintained outside the State of New York and restitution is the proper remedy for any funds garnished from such an account.

Sufficient cause appearing it is

ORDERED that service of this order and the papers upon which it was based upon the attorney for plaintiff by electronic filing pursuant to CPLR 2103(b)(7), on or before the 10<sup>th</sup> day of April, 2023, and to City Marshal Stephen W. Biegel to his email and facasimile number be deemed good and sufficient service.

*[Handwritten signature]*  
A.J.S.C.

ENTER:

*[Handwritten signature: Felice J. Muraca]*  
A.J.S.C.

HON. FELICE J. MURACA  
A.J.S.C.

*[Handwritten signature]*  
A.J.S.C.

opposition Due 4/18/23.  
Failure to appear may result  
in an adverse finding pursuant to  
22 NY CR R 202.27