



STATE OF ARKANSAS
BUREAU OF
LEGISLATIVE RESEARCH

Marty Garrity, Director
Kevin Anderson, Assistant Director for Fiscal Services
Matthew Miller, Assistant Director for Legal Services
Jessica Whittaker, Assistant Director for Research Services
Eric Sanders, Assistant Director for Information Technology Services

Claims Review/Litigation Reports Oversight Subcommittee
of the Arkansas Legislative Council
Claims Subcommittee of the Joint Budget Committee
Statement of Redaction of Confidential Information

Style of Case: Excel Fitness BEB IV v. Ark. Dept. of Finance and Admin.

Docket Number: Claim No. 250553

Type of Matter (please circle one): Claims Review Litigation Reports Oversight

As indicated by my signature below:

- I acknowledge that documents submitted to the Subcommittee may be published or disseminated by the Subcommittee for purposes of its consideration and those documents that are published or disseminated by the Subcommittee will be considered subject to disclosure under the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq.
I further acknowledge that it is my responsibility to review each document submitted to the Subcommittee and make any necessary redactions.
I certify that I have reviewed each document submitted herein and have redacted all confidential information excluded from public access by Arkansas Supreme Court Administrative Order No. 19, § VII, and the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq., including without limitation an individual's home address, personal email address, personal phone number, date of birth, social security number, information identifying a minor child, medical records, and financial account numbers.
If a redacted document has been submitted, I have also included a non-redacted copy of the same document that may be considered exempt from disclosure under Arkansas Code § 25-19-105.

Signature

Kathryn Irby

Name

Ark. State Claims Commission, director

Title and Agency

January 13, 2025

Date

ARKANSAS CLAIMS COMMISSION

(501)682-1619
(501)682-2823 FAX



Questions? Send an email to
ascc.new.claims@arkansas.go

101 EAST CAPITOL AVENUE, SUITE 410
LITTLE ROCK, ARKANSAS 72201-3823

CLAIM FORM

1. Claimant. If a claim involves more than one claimant, additional pages may be attached with the other claimant name(s) and contact information.

Excel Fitness BEB IV

(title last name/compan first name (email)

1901 West Braker Lane, Suite 400

(address)

Austin TX 78758-

(city) (state) (zip) (primary phone)

2. Claimant's Legal Counsel. An individual claimant may act as his or her own attorney (which is known as proceeding pro se). Please review Ark. Code Ann. § 19-10-222 for information about when a business entity may file a pro se claim. If a claimant is proceeding pro se, this section may be left blank.

(title) (last name) (first name) (email)

(address) AR bar number

(city) (state) (zip) (primary phone)

3. State Agency Involved. The Commission can only receive claims against agencies of the State of Arkansas. Please review the Commission's jurisdictional statutes, including Ark. Code Ann. § 19-10-204 and Ark. Code Ann. § 21-5-701, for more information. This information is required for any claim filed at the Commission.

Arkansas Department of Finance and Administration

4. Incident Date 2/1/2023

5. Location of Incident

6. CHECK HERE if this claim involves damage to a motor vehicle. []

7. CHECK HERE if this claim involves damage to property other than a motor vehicle. []

8. Explanation of Incident Please provide an explanation of your claim, including why you believe the above-listed state agency is liable for your damages under Arkansas law. You may attach additional pages to this form.

This claim is being filed for the reissuance of warrant # [REDACTED] payable to Excel Fitness BEB IV the amount of \$19,000.00 payable from the Arkansas Department of Finance and Administration. This warrant was not presented to the state treasurer for redemption during the legal redemption period.

Warrant or necessary papers for reissuing lost warrant(s)/check(s) is/are attached to and made a part of this complaint.

Completed paperwork for reissuance of this warrant was received in this office on October 10, 2024.

9. Insurance Coverage. For a claim involving damage to a vehicle or other property, you must submit a copy of your insurance declarations in effect at the time of the incident. This is not the same as an insurance card. You can obtain a copy of your insurance declarations from your insurer or insurance agent. Please review Ark. Code Ann. § 19-10-302 for more information.

****If you did NOT have insurance covering the damaged property or motor vehicle at the time of incident, CHECK HERE**

10. Additional Required Documents for Property Damage Claim

You must submit (1) invoice(s) documenting the repair costs, (2) three estimates for repair, OR (3) an explanation why this documentation cannot be provided.

11. If a state vehicle was involved, please provide the following information

(type of state vehicle involved) (license number) (driver)

12. If your claim involves personal injuries, please CHECK HERE

13. Health insurance coverage. All personal injury claims require a copy of your health insurance information in place at the time of the incident. Please review Ark. Code Ann. § 19-10-302 for more information.

****If you did NOT have health insurance on the date of the incident, CLICK HERE**

14. Amount of Damages, if known: \$19,000.00

IMPORTANT!

A claim filed at the Commission is a lawsuit against a state agency. The Commission is the courthouse for these lawsuits. Please note that Commission staff can answer general questions about the claim process but cannot give legal advice. The Commission rules and a non-exhaustive list of statutes that relate to the Commission can be found on the Commission website (arclaimscommission.arkansas.gov). The Arkansas Rules of Civil Procedure can be found online (arcourts.gov) under "Info Resources."

STOP!

This signature page must be completed in the presence of a Notary Public. Do not sign until you are directed to do so by the Notary Public. If there is more than one claimant involved in this claim, each claimant must complete a separate signature page.

If you are an ARKANSAS-LICENSED ATTORNEY submitting a claim on behalf of your client, there is a different signature page that must be used. Please call (501)682-1619 and ask for an attorney signature page.

If a BUSINESS OR CORPORATE ENTITY is filing a claim without an attorney (and meets the requirements of Ark. Code Ann. § 19-10-222 for doing so), there is a different signature page that must be used. Please call (501)682-1619 and ask for a corporate signature page.

The undersigned certifies that to the best of my knowledge, information, and belief, this claim is not being presented for any improper purpose; this claim is warranted by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law or for establishing new law; and the factual contentions have evidentiary support of, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

Claimant Signature

ACKNOWLEDGEMENT

State of _____

County of _____

On this the ___ day of _____, 20___, before me, the undersigned notary, personally appeared _____ known to me (or satisfactorily proven) to be the person whose name is subscribed to this instrument and acknowledged that he/she executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Signature of Notary Public

[seal of office]

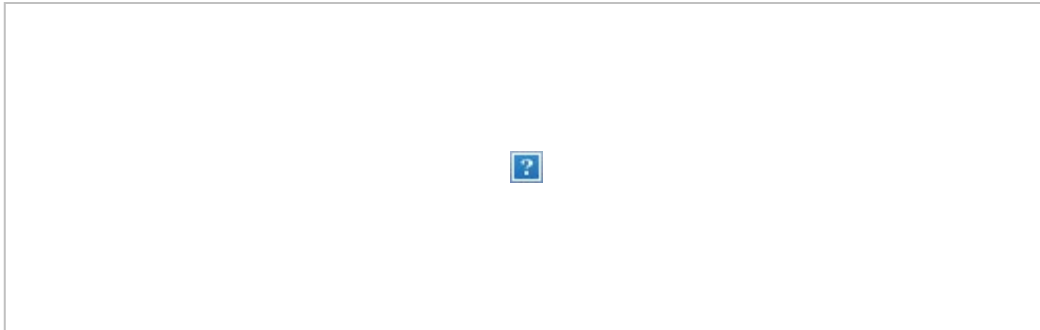
My Commission Expires: _____

From: [Jeremy J. Boyd](#)
To: [ASCC New Claims](#)
Cc: [Terrill Gilliam](#)
Subject: Excel Fitness BEB IV Notice of Lost Outdated Warrant
Date: Thursday, October 10, 2024 1:37:22 PM
Attachments: [image001.png](#)
[Scan_2024_10_10_13_24_48_524.pdf](#)
[Scan_2024_08_13_15_16_50_309.pdf](#)

You don't often get email from jeremy.boyd@dfa.arkansas.gov. [Learn why this is important](#)

Good afternoon,

Please see the attached Notice of Lost Outdated Warrant and supporting documents. Thank you
Jeremy



ARKANSAS STATE CLAIMS COMMISSION
Phone #682-1619-Fax #682-2823
NOTICE OF LOST OUTDATED WARRANT(S)

Part I

The records of the of Arkansas, Phone

Agency
Agency Address

Reflect that

Payee/Payees
Payee's Address City
TX was/were issued.
State Zip Code

State Warrant number dated

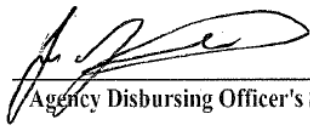
in the amount of \$

Include your current Agency No. Cost Center

Appropriation No. Character Code

Fund Code and Fund Center

Agency Disbursing Officer's Full Name (please print)


Agency Disbursing Officer's Signature

Part II

STATEMENT OF FORGERY
(FORGED WARRANTS ONLY)

I/We _____, state that:

- _____ 1. I/we received and lost.
- _____ 2. I/we did not receive, endorse nor cash.
- _____ 3. I/we have not authorized another person to sign my/our name(s) to the warrant.
- _____ 4. I/we have no knowledge of the whereabouts of the warrant or of any other Person having received, cashed or endorsed the warrant.
- _____ 5. When this warrant was cashed, the endorsement was a forgery.

Revised 8/21/24



STATE OF ARKANSAS
Department of Finance and Administration
Office Of Accounting
Non-Payroll Warrant Cancellation Form
(Prior and Current Year)

Warrant Number: [REDACTED]	Agency Number: [REDACTED]	Agency Name: DFA Sales Tax
Reason for Cancellation: Did not receive, endorse, nor cash		

Void Reason: 05 Printed incorrectly 06 Destroyed/Unusable 10 Check voided after printing
 13 Reported lost 16 Undeliverable

Is the Warrant to be reissued? Yes No Mark "A" Hold for Pickup? Yes

If no, what are the corresponding document numbers? If it is a MIRO document, provide both document number. The invoice number provided will be used to reverse the invoice, if the invoice is reversed.

Original AASIS Document Numbers:

Office of Accounting Use Only:

Is this a multi-payee document? Yes No

Fund:	GL:	Vendor:
Cost Center:	Amount:	IO/WBS:

Completed by: Jeremy Boyd	Phone: 501-682-7152	Date: 8/13/2024
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Remit form to:
Office of Accounting, 1509 w 7th, Suite 200, Little Rock, AR
72201 Telephone: (501) 682-1675 | Fax: (501) 683-0823

***Must be original warrant or affidavit / bond**

AFFIDAVIT OF FORGED WARRANT

The records of the SALES AND USE TAX SECTION of Arkansas reflect that

EXCEL FITNESS BEB IV Agency was issued Warrant number [REDACTED]

Payee(s) Warrant Number

Dated [REDACTED] in the amount of \$ 19,000.00, the same being in payment of

Fiscal Year Warrant Amount

Invoice # Agency # Fund Center Commitment Item Fund

Federal Identification # [REDACTED] Gross Pay \$0.00 Withholding \$0.00

Address- Payroll Only

Daytime Telephone # Disbursing Officer

I/We, Excel Fitness, state that:

Payee (s)

CHECK APPROPRIATELY -- ALL THAT APPLY

- 1. I received and lost.
- 2. I did not receive, endorse, nor cash.
- 3. I have not authorized another person to sign my name to the warrant.
- 4. I have no knowledge of the whereabouts of the warrant or of any other person having received, cashed, or endorsed the warrant.
- 5. If this warrant is presented for payment, the endorsement is a forgery.
- 6. The endorsement on same is a forgery.

[Signature]

Payee Signature

1901 W Braker Ln Ste 400

Address

Austin, Tx, 78758

City, State, Zip Code

Daytime Telephone # 919-395-6284

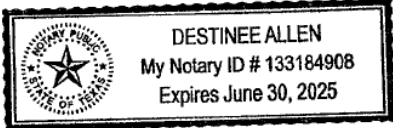
Payee Signature

Address

City, State, Zip Code

Daytime Telephone #

ON THIS THE 7 DAY OF August, 2024, before me personally appeared Excel Fitness to me known to be the persons described in and who executed the foregoing instrument and acknowledged that they signed, sealed, executed and delivered the same as their free act and deed for the purpose therein mentioned.



[Signature]
NOTARY PUBLIC

Travis Tx
County State

My commission expires 6/30/25

(SEAL)



STATE OF ARKANSAS
DEPARTMENT OF FINANCE AND ADMINISTRATION
Processing
PO BOX 1272, LITTLE ROCK, AR 72203-1272

May 31, 2023

Sales and Use Tax

PLANET FITNESS
ATTN: KIMBERLY ATTWOOD
1901 W BRAKER LN STE 400
AUSTIN TX 78758-4090

Letter ID: [REDACTED]
Account ID: [REDACTED]
Period Ending: December 31, 2022

RE: WARRANT REPLACEMENT

DEAR EXCEL FITNESS BEB IV:

This letter is in regard to your request for the Department of Finance and Administration (DFA) to reissue the warrant (refund check) that you have lost or not received concerning: warrant #: [REDACTED] in the amount of \$19,000.00.

Attached is the Affidavit of Forged Warrant. The form must be completed in order for DFA to reissue the warrant. Please provide a daytime telephone number, complete the bottom half of the form, and have it notarized. **Return the original notarized copy to:**

SALES AND USE TAX SECTION
P.O. BOX 1272, LITTLE ROCK, AR 72203-1272

If you have questions, please contact a customer service representative at (501) 682-7104. Provide your Account ID and Letter ID shown above when you call or write about this letter.

Sincerely,

Eddy Campbell
DFA Division Manager I

**ARKANSAS STATE CLAIMS COMMISSION
Reissuance of Out-Dated Warrants**

Date: 10/16/2024

Warrant: 

Name of Payee: Excel Fitness BEB IV

Amount: \$19,000

Upon checking with Rick of AOS/Data Processing Division, I was informed that this warrant was voided, and no duplicate warrant had been issued. We also checked our (Claims Commission) records to verify that there has been no reissuance by this office and there was none.

CM

ARKANSAS STATE CLAIMS COMMISSION

(501) 682-1619
FAX (501) 682-2823



KATHRYN IRBY
DIRECTOR

101 EAST CAPITOL AVENUE
SUITE 410
LITTLE ROCK, ARKANSAS
72201-3823

October 16, 2024

Excel Fitness BEB IV
1901 West Braker Lane, Suite 400
Austin, Texas 78758

RE: **Claim No. 250553** – Reissuance of Check No. [REDACTED]

To Whom It May Concern,

The Claims Commission received notification from the Arkansas Department of Finance and Administration that a check issued to you by the State of Arkansas was not deposited within 180 days of issuance. That check is now considered stale or out-of-date.

The Claims Commission processes the reissuance of out-of-date checks for the State of Arkansas.

To have the above-referenced check reissued, we need you to complete the enclosed form. Please review the enclosed form for correctness and, once you approve it, sign the complaint in the presence of a Notary Public and return it to our office to be processed.

It generally takes six to eight weeks for a new check to be reissued once we receive the enclosed form.

If you have any questions, please call and ask to speak with Caitlin McDaniel or me.

Sincerely,

Kathryn Irby

ES: cmedaniel

Enclosure

ARKANSAS CLAIMS COMMISSION

(501)682-1619
(501)682-2823 FAX



arclaimscommission.arkansas.gov
ascc.new.claims@arkansas.gov

101 EAST CAPITOL AVENUE, SUITE 410
LITTLE ROCK, ARKANSAS 72201-3823

COMPLAINT

1. Claimant

Excel Fitness BEB IV

(title/last name/first name) (email)

1901 West Braker Lane, Suite 400

(address)

Austin TX 78758-

(city) (state) (zip) (primary phone)

2. State Agency Involved

Arkansas Department of Finance and Administration

(state agency involved)

3. Claim Type

Reissuance of Warrant

This claim is being filed for the reissuance of warrant [REDACTED] payable to Excel Fitness BEB IV the amount of \$19,000.00 payable from the Arkansas Department of Finance and Administration. This warrant was not presented to the state treasurer for redemption during the legal redemption period.

Warrant or necessary papers for reissuing lost warrant(s)/check(s) is/are attached to and made a part of this complaint.

Completed paperwork for reissuance of this warrant was received in this office on October 10, 2024.

4. Amount Sought: \$19,000.00

STOP!

The following section MUST be completed in the presence of a Notary Public.

The undersigned certifies that to the best of my knowledge, information, and belief, I am authorized by _____ (name of business entity) to file this claim on its behalf. The undersigned also certifies that this claim is not being presented for any improper purpose; this claim is warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law; and the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

Name of Representative of Business Entity
(must be printed legibly)

Signature of Representative

ACKNOWLEDGEMENT

State of _____

County of _____

On this the __ day of _____, 20 __, before me, the undersigned notary, personally appeared _____ known to me (or satisfactorily proven) to be the person whose name is subscribed to this instrument and acknowledged that he/she executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Signature of Notary Public

[seal of office]

My Commission Expires: _____

ARKANSAS CLAIMS COMMISSION

(501)682-1619
(501)682-2823 FAX



arclaimscommission.arkansas.gov
ascc.new.claims@arkansas.gov

101 EAST CAPITOL AVENUE, SUITE 410
LITTLE ROCK, ARKANSAS 72201-3823

Arkansas
State Claims Commission

NOV 15 2024

RECEIVED

COMPLAINT

1. Claimant

Excel Fitness BEB IV

(title/last name/first name) (email)

1901 West Braker Lane, Suite 400

(address)

Austin TX 78758-

(city) (state) (zip) (primary phone)

2. State Agency Involved

Arkansas Department of Finance and Administration

(state agency involved)

3. Claim Type

Reissuance of Warrant

This claim is being filed for the reissuance of warrant [REDACTED] payable to Excel Fitness BEB IV the amount of \$19,000.00 payable from the Arkansas Department of Finance and Administration. This warrant was not presented to the state treasurer for redemption during the legal redemption period.

Warrant or necessary papers for reissuing lost warrant(s)/check(s) is/are attached to and made a part of this complaint.

Completed paperwork for reissuance of this warrant was received in this office on October 10, 2024.

4. Amount Sought: \$19,000.00

STOP!

The following section MUST be completed in the presence of a Notary Public.

The undersigned certifies that to the best of my knowledge, information, and belief, I am authorized by Excel Fitness BEB IV LLC (name of business entity) to file this claim on its behalf. The undersigned also certifies that this claim is not being presented for any improper purpose; this claim is warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law; and the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

JOSEPH CANCELLIERE, CFO

Name of Representative of Business Entity
(must be printed legibly)

[Handwritten Signature]
Signature of Representative

ACKNOWLEDGEMENT

State of Texas
County of Travis

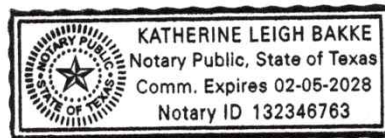
On this the 11th day of November, 2024, before me, the undersigned notary, personally appeared Joseph Cancelliere known to me (or satisfactorily proven) to be the person whose name is subscribed to this instrument and acknowledged that he/she executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

[Handwritten Signature]
Signature of Notary Public

[seal of office]

My Commission Expires: 2/5/28



BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

EXCEL FITNESS BEB IV

CLAIMANT

V.

CLAIM NO. 250553

**ARKANSAS DEPARTMENT OF
FINANCE AND ADMINISTRATION-
SALES AND USE TAX**

RESPONDENT

ORDER

This claim was filed by Excel Fitness BEB IV (the “Claimant”) requesting reissuance of outdated warrant no. [REDACTED] (the “Warrant”) in the amount of \$19,000.00 payable from Arkansas Department of Finance and Administration-Sales and Use Tax Section.

The Arkansas State Claims Commission unanimously allows this claim in the amount of \$19,000.00 and refers this claim to the General Assembly for review and placement on an appropriation bill pursuant to Ark. Code Ann. § 19-10-215(b).

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION

Solomon Graves



ARKANSAS STATE CLAIMS COMMISSION

Dee Holcomb



ARKANSAS STATE CLAIMS COMMISSION

Paul Morris, Chair

DATE: December 13, 2024

Notice(s) which may apply to your claim

- (1) A party has forty (40) days from transmission of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the transmission of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).