

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO.

ANNE KEYTE, *on behalf of herself
and all others similarly situated,*

Plaintiff,

v.

MEDICREDIT, INC.,
a Missouri Corporation,

Defendant.

CLASS ACTION COMPLAINT

1. Plaintiff alleges violations of the *Fair Debt Collection Practices Act*, 15 U.S.C. §1692 *et seq.* (“FDCPA”).

JURISDICTION AND VENUE

2. This Court has jurisdiction under the *Fair Debt Collection Practices Act*, pursuant to 28 U.S.C. §1331 and 15 U.S.C. §1692k. Venue in this District is proper because Plaintiff resides here, and Defendant conducts business in this District.

PARTIES

3. Plaintiff, Anne Keyte (“Plaintiff”), is a natural person, residing in Saint Lucie County, Florida.

4. Defendant, Medicredit, Inc. (“Defendant”), is a Missouri Corporation and is engaged in the business of collecting consumer debts, which operates from offices located at 3620 I-70 Drive SE, Suite C, Columbia, Missouri 65201.

5. Defendant regularly uses the United States Postal Service and telephone in the collection of consumer debts.

6. Defendant is licensed in Florida as a consumer collection agency, license number CCA0900581. Defendant is not licensed in Florida as a commercial collection agency.

7. Defendant regularly collects or attempts to collect consumer debts for other parties. Defendant is a “debt collector” as defined by the *FDCPA*.

8. At all times material to the allegations of this Complaint, Defendant was acting as a debt collector with respect to the collection of Plaintiff’s alleged debt.

FACTUAL ALLEGATIONS

9. Defendant sought to collect a consumer debt from Plaintiff, more specifically, a medical debt. The debt was incurred primarily for personal, household or family use. The debt was not incurred for any commercial purpose.

10. On or about September 5, 2017, Defendant mailed, or caused to be mailed to Plaintiff, a written communication seeking payment of an alleged debt. (The “Demand Letter” is attached hereto as “Exhibit 1”).

11. The Demand Letter states, in part:

The account(s) listed below have been placed with this agency with the full intention of collecting on this account(s). Please give the past due account(s) the attention it deserves.

XXXX

Client Account #	Facility	Patient Name	Date of Service	Balance
853-4 ¹	Heart Family Hlth Inst Of	Anne Keyte	05/01/2017	27.47
683-4 ²	Heart Family Hlth Inst Of	Anne Keyte	05/01/2017	12.53

¹ Plaintiff’s account number has been redacted for the protection of her privacy. Only the last four digits of the Plaintiff’s account number are reflected in the Complaint.

² Plaintiff’s account number has been redacted for the protection of her privacy. Only the last four digits of the Plaintiff’s account number are reflected in the Complaint.

12. The Demand Letter was Defendant's initial communication with Plaintiff with respect to the debt alleged therein.

13. *15 U.S.C. §1692g(a)* states:

Validation of debts.

(a) Notice of debt; contents. Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing-

(1) the amount of the debt;

(2) **the name of the creditor to whom the debt is owed;**

(3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector;

(4) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and

(5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

(Emphasis added).

14. Defendant's Demand Letter does not identify a creditor to whom the debt is owed. Instead the Demand Letter only identifies the facility at which Plaintiff received her medical treatment.

15. 15 U.S.C. §1692e(10) states:

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

XXXX

(10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

16. Defendant's Demand Letter is false and misleading as it omits the name of the creditor to whom the alleged debt is owed and only lists the facility at which Plaintiff received treatment.

17. Any potential *bona fide* error defense which relies upon Defendant's mistaken interpretation of the legal duties imposed upon it by the *FDCPA* would fail as a matter of law.

CLASS ACTION ALLEGATIONS

18. This action is brought on behalf of a Class consisting of (i) all natural persons with addresses in Saint Lucie County, Florida (ii) to whom an initial written communication was mailed, or caused to be mailed (iii) by Defendant (iv) that identified the facility as "Heart Family Hlth Inst Of" (v) and did not name a creditor (vi) that were not returned undeliverable by the U.S. Post Office (vii) in an attempt to collect a debt incurred for personal, family, or household purposes (viii) during the prior one year period ending on the date of the filing of this Complaint.

19. Plaintiff alleges on information and belief that Defendant's practice of sending initial communication letters that did not name the creditor of the debt served upon the Class is so numerous that joinder of all members of the Class is impractical.

20. There are questions of law or fact common to the Class. Common issues predominate over any issues involving only individual Class members. The common legal and

factual issue to each Class member is that each was mailed, or caused to be mailed, an initial written communication by Defendant that did not contain the name of the creditor to whom the debt was owed as required by *15 U.S.C. §1692g(a)*.

21. Plaintiff's claim is typical of those of the Class members. All are based on the same facts and legal theories.

22. Plaintiff will fairly and adequately protect the interests of the Class. She has retained counsel experienced in handling actions involving unlawful practices under the *FDCPA* and Class actions. Neither Plaintiff nor her counsel have any interests which might cause them not to vigorously pursue this action.

23. Certification of the Class under *Rule 23(b)(3)* of the *Federal Rules of Civil Procedure* is also appropriate in that:

(1) The questions of law or fact common to the members of the class predominate over any questions affecting an individual member.

(2) A class action is superior to other available methods for the fair and efficient adjudication of the controversy.

24. Plaintiff requests certification of a Class under *Rule 23(b)(3)* of the *Federal Rules of Civil Procedure* for monetary damages; her appointment as Class Representative; and that her attorney Leo W. Desmond be appointed Class Counsel.

COUNT I CLASS CLAIM
VIOLATION OF 15 U.S.C. §1692g(a)

25. Plaintiff re-alleges Paragraphs 1 through 17.

26. *15 U.S.C. §1692g(a)(2)* states:

Validation of debts.

(a) Notice of debt; contents. Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the

following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing-

XXXX

(2) the name of the creditor to whom the debt is owed;

27. Defendant mailed, or caused to be mailed the Demand Letter to Plaintiff, in an attempt to collect a consumer debt.

28. The Demand Letter was the initial communication in connection with the collection of a consumer debt between Defendant and Plaintiff.

29. Defendant's Demand Letter does not identify the creditor to whom the debt is owed, as required by *15 U.S.C. §1692g(a)(2)*.

30. The Demand Letter omits the name of the creditor to whom the alleged debt is owed and only lists the partial name of the facility at which Plaintiff received treatment, "Heart Family Hlth Inst Of."

31. As a result of Defendant's conduct, Plaintiff and the Class are entitled to an award of statutory damages pursuant to *15 U.S.C. §1692k*.

32. As a result of Defendant's conduct, Plaintiff and the Class entitled to an award of costs and attorney's fees pursuant to *15 U.S.C. §1692k*.

COUNT II CLASS CLAIM
VIOLATION OF 15 U.S.C. §1692e(10)

33. Plaintiff re-alleges Paragraphs 1 through 17, and 26 through 30.

34. *15 U.S.C. §1692e (10)* states:

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

XXXX

(10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

35. Defendant mailed, or caused to be mailed the Demand Letter to Plaintiff, in an attempt to collect a consumer debt.

36. The Demand Letter was the initial communication in connection with the collection of a consumer debt between Defendant and Plaintiff.

37. The Demand Letter is false and misleading because it omits the name of the creditor to whom the alleged debt is owed and only lists the facility at which Plaintiff received treatment.

38. Defendant's Demand Letter would be deceptive to the least sophisticated consumer with regard to his/her legal rights.

39. As a result of Defendant's conduct, Plaintiff and the Class are entitled to an award of statutory damages pursuant to *15 U.S.C. §1692k*.

40. As a result of Defendant's conduct, Plaintiff and the Class are entitled to an award of costs and attorney's fees pursuant to *15 U.S.C. §1692k*.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

- a. An Order certifying the *FDCPA* matter as a Class Action and appointment of Plaintiff as Class Representative;
- b. An Order appointing Leo W. Desmond as Class Counsel;
- c. An award of statutory damages for Plaintiff and the Class pursuant to *15 U.S.C. §1692k* for all Class claims;
- d. An award of attorney's fees, litigation expenses and costs of the instant suit;
and
- e. Such other and further relief as the Court deems proper.

Dated: February 26, 2018.

Respectfully submitted,

/s/ Leo W. Desmond

Leo W. Desmond, Esquire
Florida Bar Number 0041920
DESMOND LAW FIRM, P.C.
5070 Highway A1A, Suite D
Vero Beach, Florida 32963
Telephone: 772.231.9600
Facsimile: 772.231.0300
lwd@desmondlawfirm.com
Attorney for Plaintiff

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS ANNE KEYTE

DEFENDANTS MEDICREDIT, INC.

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number) Leo W. Desmond, Desmond Law Firm, P.C. 5070 Highway A1A, Suite D, Vero Beach, FL 32963 772-231-9600

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known)

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State PTF DEF 1 1 Incorporated or Principal Place of Business In This State
Citizen of Another State 2 2 Incorporated and Principal Place of Business In Another State
Citizen or Subject of a Foreign Country 3 3 Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Grid of categories for nature of suit: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding 2 Removed from State Court 3 Re-filed (See VI below) 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation Transfer 7 Appeal to District Judge from Magistrate Judgment 8 Multidistrict Litigation - Direct File 9 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S)

(See instructions): a) Re-filed Case YES NO b) Related Cases YES NO

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity): 15 USC 1692 et seq. Violation of the Fair Debt Collection Practices Act. LENGTH OF TRIAL via 3-4 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 500,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE February 26, 2018 SIGNATURE OF ATTORNEY OF RECORD /s/ Leo W. Desmond Fla. Bar 0041920

FOR OFFICE USE ONLY RECEIPT #

AMOUNT IFP JUDGE MAG JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

VI. Related/Refiled Cases. This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

VII. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.**

Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VIII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

ANNE KEYTE, on behalf of herself and all others similarly situated,

Plaintiff(s)

v.

MEDICREDIT, INC. a Missouri Corporation

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

C T CORPORATION REGISTERED AGENT FOR MEDICREDIT, INC. 1200 SOUTH PINE ISLAND ROAD PLANTATION, FL 33324

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Leo W. Desmond, Esq. Desmond Law Firm, P.C. 5070 Highway A1A Suite D Vero Beach, FL 32963

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

MEDICREDIT, INC.
 PO Box 1629
 Maryland Heights, MO 63043-0629
Phone: 800-823-2318

You can also pay by check or credit card at our website:
www.medicreditcorp.com

Account #: [REDACTED] 6779
 # of Accounts on File: 2

Balance due on file: \$40.00

The account(s) listed below have been placed with this agency with the full intention of collecting on this account(s). Please give the past due account(s) the attention it deserves.

For phone payments or express mail, or MoneyGram information, call between 8:00am and 8:00pm Monday through Thursday, 8am and 5pm Friday, and 9am and 1pm Saturday. All times are Central Time Zone.



Please call to make a payment by check or credit card by telephone



Important Notice:

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days after receiving this notice that you dispute the validity of this debt or any portion of it, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor.

Client Account #	Facility	Patient Name	Date of Service	Balance
[REDACTED] 653-4	Heart Family Hlth Inst Of	Anne Keyte	05/01/2017	27.47
[REDACTED] 683-4	Heart Family Hlth Inst Of	Anne Keyte	05/01/2017	12.53

Call us toll free at 800-823-2318.

**This communication is from a debt collector and is an attempt to collect a debt.
 Any information obtained will be used for this purpose.**

>>> Please see reverse side for credit card payments <<<

846826440_29TTTOGW0101DHCI_31116779_B1H15C21

Detach Lower Portion and Return with Payment

TTTOGW01
 PO Box 1280
 Oaks PA 19456-1280

Account # [REDACTED] 6779
 Balance Due on File: \$40.00
 Statement Date: September 5, 2017

ADDRESS SERVICE REQUESTED



Anne L Keyte
 469 Hemingway Ter
 Fort Pierce FL 34982-7964

Mail all Correspondence to:

MEDICREDIT, INC.
 PO Box 1629
 Maryland Heights, MO 63043-0629



2018 09 05 10:11:11

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [FL Woman Sues Medcredit Over Alleged Failure to Identify Creditor](#)
