

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

2016 OCT 18 AM 9:07

ELIAJALYN NAZARIO,  
individually and on behalf of  
all others similarly situated,

Plaintiffs,

vs.

CASE NO.:

2:16-cv-772-UA-MRM-99/MLM

PROFESSIONAL ACCOUNT SERVICES,  
INC., a foreign corporation, and  
PRIME HEALTHCARE SERVICES –  
LEHIGH ACRES, LLC., d/b/a LEHIGH REGIONAL  
MEDICAL CENTER, a foreign  
Corporation,

Defendants.

\_\_\_\_\_ /

**CLASS ACTION COMPLAINT**

COMES NOW the Plaintiff, ELIAJALYN NAZARIO, individually and on behalf of all others similarly situated, and sues the Defendants, PROFESSIONAL ACCOUNT SERVICES, INC., and PRIME HEALTHCARE SERVICES – LEHIGH ACRES, LLC., d/b/a LEHIGH REGIONAL MEDICAL CENTER (hereinafter “LEHIGH REGIONAL”), for violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (“FDCPA”) and the Florida Consumer Collection Practices Act, Fla. Stat. §559.55 *et seq.* (“FCCPA”), and for declaratory and injunctive relief, saying as follows:

**Introduction**

1. The Defendants devised a scheme of creating counterfeit “Hospital Liens,” immediately filing the fake liens into the public record, purporting to create a false advantage over accident victims, insinuating fictional priority “lien” claims against victims’ third party

liability, uninsured motorists, and/or other insurance benefits, to collect more for their hospital bills. These counterfeit Hospital Liens were nearly identical in appearance to the “real” (and legally authorized) liens filed by the *non-profit, public* hospitals operated by Lee Memorial Health System (“LMHS”). Florida Statutes and Lee County Ordinances *authorize* the LMHS Liens, yet the defendants’ counterfeit Hospital Liens are *not authorized* by any authority. The defendants’ scheme went on to file these Counterfeit Liens against children, for amounts far in excess of the actual hospital bills, and as vehicles for unlawfully disclosing massive amounts of ‘Protected Health Information’ in direct violation of HIPPA.

2. This litigation seeks certification of the class of persons aggrieved, believed to number in the hundreds, to enjoin the further perpetration of the unlawful scheme, to declare the liens unlawful and void, and for redress, and compensatory and punitive damages for the misconduct.

#### **Jurisdiction and Venue**

3. This Court has jurisdiction for all counts under 28 U.S.C. §§1332, 1337, 1367 and 15 U.S.C. §1692k.
4. Venue in this District is proper because Plaintiff resides here and the Defendants do business in this District. With respect to Florida law violations, this Court also has jurisdiction under 28 U.S.C. §1332(d).

#### **Parties**

5. Plaintiff, ELIAJALYN NAZARIO (“Plaintiff”), is natural person and citizen of the State of Florida, residing in Lee County, Florida.

6. Defendant PROFESSIONAL ACCOUNT SERVICES, INC., is a collection agency with its principal place of business at 4000 Meridian Blvd, Franklin, TN 37067.
7. Defendant PRIME HEALTHCARE SERVICES – LEHIGH ACRES, LLC., d/b/a LEHIGH REGIONAL MEDICAL CENTER is a for profit agency with its principal place of business at 3300 E. Guasti Road, 3rd Floor, Ontario, CA 91761.

**Factual Allegations**

8. LEHIGH REGIONAL filed a Notice of Hospital Lien (See: Exhibit A) and mailed a copy to Plaintiff in an attempt to collect a debt. Upon information and belief, this is a pattern and practice that they have with thousands of consumers.
9. LEHIGH REGIONAL used its employee and/or agent PAS to prepare, file and collect on its liens.
10. Defendant LEHIGH REGIONAL regularly uses the mail in its business.
11. LEHIGH REIGIONAL'S business activities in Florida involve collecting or attempting to collect consumer debt from debtors located in Florida.
12. PROFESSIONAL ACCOUNT SERVICES, INC.'s business activities in Florida involve collecting or attempting to collect consumer debt from debtors located in Florida by means of interstate communication originating from outside of Florida.
13. At all times material to the allegations of this complaint, Defendant LEHIGH REGIONAL was acting as a debt collector with respect to the collection of Plaintiff's alleged debt, as it was attempting to collect Plaintiff's debt.
14. At all times material to the allegations of this complaint, Defendant PROFESSIONAL ACCOUNT SERVICES, INC. was acting as a debt collector with respect to the collection of Plaintiff's alleged debt.

15. At all times relevant, Defendant PROFESSIONAL ACCOUNT SERVICES, INC. is a collection agency in the business of collecting debts, and a “debt collector” within the meaning of 15 U.S.C. §1692a(6).
16. At all times relevant, Defendant LEHIGH REGIONAL is a “consumer collection agency” as provided at §559.55, Fla. Stat., which states in pertinent part that a “‘Consumer collection agency’ means any debt collector or business entity engaged in the business... of collecting consumer debts...”
17. At all times relevant, Defendant PROFESSIONAL ACCOUNT SERVICES, INC. is a “consumer collection agency” as provided at §559.55, Fla. Stat., which states in pertinent part that a “‘Consumer collection agency’ means any debt collector or business entity engaged in the business... of collecting consumer debts...”
18. On or about November 7, 2015 Plaintiff, ELIAJALYN NAZARIO, was injured in a motor vehicle accident and as a result sustained bodily injuries related to same.
19. ELIAJALYN NAZARIO was treated at LEHIGH REGIONAL.
20. On January 11, 2016 LEHIGH REGIONAL recorded a lien through Defendant PAS.
21. Upon information and belief, the Defendant’s routine practice is to treat a patient, and then file a lien.
22. Defendants are unable to specify under what authority these liens are being filed as there is no statute or ordinance authorizing such liens.
23. Plaintiff allegedly incurred a financial obligation that was primarily for personal, family or household purposes and is therefore a “debt” as that term is defined by 15 U.S.C. §1692a(5) (hereinafter “the alleged debt”).

24. Sometime thereafter, a counterfeit lien was recorded by Defendant LEHIGH REGIONAL.
25. Subsequently, Defendant sent a letter with a copy of the lien to the Plaintiff, which is a “communication” in an attempt to collect a debt as that term is defined by 15 U.S.C. §1692a(2).
26. Plaintiff maintains that LEHIGH REGIONAL’S collection activities were unlawful.
27. Upon information and belief, Plaintiff contends that LEHIGH REGIONAL has made hundreds, if not thousands, of similar communications and attempts to collect consumer debts from Florida consumers.
28. Upon information and belief, Plaintiff contends that PROFESSIONAL ACCOUNT SERVICES, INC. has made hundreds, if not thousands, of similar communications and attempts to collect consumer debts from Florida consumers.
29. The FDCPA has been construed by Federal Courts as a strict liability statute that is to be construed liberally so as to effectuate its remedial purpose. Russell v. Equifax A.R.S., 74 F.3d 30, 33 (2d Cir. 1996).
30. Any potential bona fide error defense which relies upon Defendant’s mistaken interpretation of the legal duties imposed upon them by the FDCPA would fail as a matter of law. Jerman v. Carlisle, McNellie, Rini, Kramer & Ulrich, L.P.A., 130 S.Ct. 1605 (U.S. April 21, 2010); Owen v. I.C. Sys., Inc., 629 F.3d 1263, 1270 (11<sup>th</sup> Cir. 2011).

**Class Action Allegations**

31. This action is brought on behalf of a class consisting of:

(i) all Florida citizens (ii) who were the subject of a counterfeit lien recordation by LEHIGH REGIONAL and/or PROFESSIONAL ACCOUNT SERVICES, INC. (iii) in an attempt to collect a debt incurred for medical bills (iv) during the five year period prior to the filing of the original complaint in this action through the date of class certification.

32. Plaintiff alleges on information and belief based upon LEHIGH REGIONAL and PROFESSIONAL ACCOUNT SERVICES, INC. having made thousands of similar debt collection attempts over the applicable time frame that the class is so numerous that joinder of all members of the class is impractical.
33. There are questions of law or fact common to the class, which common issues predominate over any issues involving only individual class members. The common factual issue common to each class member was subject to collection activity on behalf of LEHIGH REGIONAL and PROFESSIONAL ACCOUNT SERVICES, INC. The principal legal issues are whether the Defendant engaged in debt collection without the right to do so in violation of state and federal law.
34. Plaintiff's claims are typical of those of the class members. All are based on the same facts and legal theories.
35. 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, FCCPA, and class actions. Neither Plaintiff nor her counsel have any interests which might cause them not to vigorously pursue this action.
36. Certification of the class under Rule 23(b)(3) of the Federal Rules of Civil Procedure is also appropriate in that:

- i. The questions of law or fact common to the members of the class predominate over any questions affecting an individual member.
- ii. A class action is superior to other available methods for the fair and efficient adjudication of the controversy.

37. Certification of a class under Rule 23(b)(2) of the Federal Rules of Civil Procedure is also appropriate in that Defendant has acted on grounds generally applicable to the class thereby making appropriate declaratory relief with respect to the class as a whole. Plaintiff, ELIAJALYN NAZARIO, requests certification of a hybrid class under Rule 23(b)(3), Federal Rules of Civil Procedure, for monetary damages and pursuant to Rule 23(b)(2) for injunctive relief.

**COUNT 1: FCCPA as to Defendant Lehigh Regional**

38. This is a cause of action against Defendant LEHIGH REGIONAL for its violation of the FCCPA.

39. Plaintiff restates (1) through (37) above, as if fully set forth herein.

40. At all times material hereto, Plaintiff was a “debtor” or “consumer” within the meaning of §559.55(2) Fla. Stat.

41. At all times material hereto, the communications and other misconduct alleged herein arose out of a “debt” or “consumer debt” within the meaning of §559.55(1) Fla. Stat.

42. At all times material hereto, the Defendant was a “person” within the meaning of §559.55(7) Fla. Stat.

43. The Defendant willfully violated provisions of the FCCPA by their conduct, which included, but was not limited to the following actions:

a. The Defendant's attempt to collect the debt was an assertion of the existence of a legal right when the Defendant knew that right did not exist in violation of Fla. Stat. §559.72(9).

44. The Defendant knew there was no authority for it to record a lien, but it did so anyway.

45. As a legal and proximate cause of the aforesaid misconduct and violations, Plaintiff has suffered actual damages and is entitled to statutory damages.

46. Plaintiff was forced to retain undersigned counsel and has or will incur attorney's fees, legal assistant fees and costs. Counsel has been retained on a contingency basis, and Plaintiff seeks a contingency risk multiplier.

47. Plaintiff is entitled to an award of attorneys' fees, legal assistant fees and costs of this action, pursuant to the provisions of the FCCPA.

48. The FCCPA provides for the imposition of punitive damages against offending parties within the discretion of the Court, and such damages may be claimed by the plaintiff now. Cohen v. Office Depot, 184 F.3d 1292 (11<sup>th</sup> Cir. 1999); *reaffirmed*, Cohen v. Office Depot, 204 F.3d 1069 (11<sup>th</sup> Cir. 2000). The Plaintiff accordingly requests that the Court exercise such discretion and impose punitive damages on the Defendant herein upon the showing of abuse and harassment of the Plaintiff through various violations the FCCPA.

**WHEREFORE**, Plaintiff, ELIAJALYN NAZARIO, demands actual and statutory damages, punitive damages attorney's fees, legal assistant fees, costs and prejudgment interest on all damages where such interest is allowable by law and such other and further relief as may be mete and proper.

**COUNT 2: FCCPA as to Defendant Professional Account Services, Inc.**



49. This is a cause of action against Defendant PROFESSIONAL ACCOUNT SERVICES, INC. for its violation of the FCCPA.
50. Plaintiff restates (1) through (37) above, as if fully set forth herein.
51. At all times material hereto, Plaintiff was a “debtor” or “consumer” within the meaning of §559.55(2) Fla. Stat.
52. At all times material hereto, the communications and other misconduct alleged herein arose out of a “debt” or “consumer debt” within the meaning of §559.55(1) Fla. Stat.
53. At all times material hereto, the Defendant was a “person” within the meaning of §559.55(7) Fla. Stat.
54. The Defendant willfully violated provisions of the FCCPA by their conduct, which included, but was not limited to the following actions:
- a. The Defendant’s attempt to collect the debt was an assertion of the existence of a legal right when the Defendant knew that right did not exist in violation of Fla. Stat. §559.72(9).
55. The Defendant knew there was no authority for it to record a lien, but it did so anyway.
56. As a legal and proximate cause of the aforesaid misconduct and violations, Plaintiff has suffered actual damages and is entitled to statutory damages.
57. Plaintiff was forced to retain undersigned counsel and has or will incur attorney’s fees, legal assistant fees and costs. Counsel has been retained on a contingency basis, and Plaintiff seeks a contingency risk multiplier.
58. Plaintiff is entitled to an award of attorneys’ fees, legal assistant fees and costs of this action, pursuant to the provisions of the FCCPA.

59. The FCCPA provides for the imposition of punitive damages against offending parties within the discretion of the Court, and such damages may be claimed by the plaintiff now. Cohen v. Office Depot, 184 F.3d 1292 (11<sup>th</sup> Cir. 1999); *reaffirmed*, Cohen v. Office Depot, 204 F.3d 1069 (11<sup>th</sup> Cir. 2000). The Plaintiff accordingly requests that the Court exercise such discretion and impose punitive damages on the Defendant herein upon the showing of abuse and harassment of the Plaintiff through various violations the FCCPA.

**WHEREFORE**, Plaintiff, ELIAJALYN NAZARIO, demands actual and statutory damages, punitive damages, attorney's fees, legal assistant fees, costs and prejudgment interest on all damages where such interest is allowable by law and such other and further relief as may be meted and proper.

**COUNT 3: FDCPA as to Defendant Professional Account Services, Inc.**

60. This is a cause of action against Defendant PROFESSIONAL ACCOUNT SERVICES, INC. for its violation of the FDCPA, 15 U.S. Code § 1692e(2)(a).

61. Plaintiff restates (1) through (37) above, as if fully set forth herein.

62. 15 U.S.C. § 1692e, prohibits debt collectors from using any false, deceptive, or misleading representation or means in connection with the collection of any debt.

63. Defendant is recording a counterfeit lien, with no legal basis, and representing to consumers that is a valid, legal lien.

64. The allegations as referenced throughout the complaint constitute false, deceptive, or misleading representations, in violation of the FDCPA.

65. The Defendant knew and intended to file the counterfeit lien.

66. As a legal and proximate cause of the aforesaid misconduct and violations, Plaintiff has suffered actual damages and is entitled to statutory damages.

67. Plaintiff was forced to retain undersigned counsel and has or will incur attorney's fees, legal assistant fees and costs. Counsel has been retained on a contingency basis, and Plaintiff seeks a contingency risk multiplier.

68. Plaintiff is entitled to an award of attorneys' fees, legal assistant fees and costs of this action, pursuant to the provisions of the FCCPA.

**WHEREFORE**, Plaintiff, ELIAJALYN NAZARIO, demands actual and statutory damages, punitive damages, attorney's fees, legal assistant fees, costs and prejudgment interest on all damages where such interest is allowable by law and such other and further relief as may be mete and proper.

**COUNT 4: FUDTPA as to Lehigh Regional**

69. Plaintiff restates (1) through (37) above, as if fully set forth herein.

70. Chapter 501, Fla. Stat., Florida's Deceptive and Unfair Trade Practices Act is to be liberally construed to protect the consuming public, such as Plaintiff in this case, from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce.

71. Plaintiff is a consumer within the meaning of Fla. Stat. § 501.203(7).

72. Defendant engaged in trade and commerce within the meaning of Fla. Stat. § 501.203(8).

73. While FDUTPA does not define "deceptive" and "unfair," it incorporates by reference the Federal Trade Commission's interpretations of these terms. The FTC has found that a "deceptive act or practice" encompasses "a representation, omission or practice that is likely to mislead the consumer acting reasonably in the circumstances, to the consumer's detriment."

74. The Defendant recorded a counterfeit lien that was unlawful. Additionally, the lien claimed to attach the entirety of any settlement and all of her available insurance as opposed to just the amount of her medical bills.
75. The Plaintiff was damaged by virtue of the public filing of her private health information, indebtedness, invasion of her privacy, slander of credit and misrepresentation of Defendant's rights, and by the false assertion of the lien rights.
76. The materially false statements about the counterfeit lien as described above were unfair, unconscionable, and deceptive practices perpetrated on the Plaintiff which would have likely deceived a reasonable person under the circumstances.
77. The Defendant was on notice at all relevant and material times that the false representations and falsified liens as described above were being communicated to consumers through its agent and/or employee, PROFESSIONAL ACCOUNT SERVICES, INC. In fact, they were being mailed and recorded with all of their personal information.
78. As a result of the false representations and falsified liens Plaintiff has been damaged.
79. The Defendant engaged in unfair and deceptive trade practices in violation of Fl. Stat. §501.201 *et. seq.*
80. Pursuant to §§ 501.211(1) and 501.2105, Fla. Stat., Plaintiff is entitled to recover from Defendants the reasonable amount of attorneys' fees Plaintiff has incurred in representing her interests in this matter.

**WHEREFORE**, Plaintiff, ELIAJALYN NAZARIO, demands actual and statutory damages, attorney's fees, legal assistant fees, costs and prejudgment interest on

all damages where such interest is allowable by law and such other and further relief as may be meted and proper.

**COUNT 5: FUDTPA as to Professional Account Services, Inc.**

81. Plaintiff restates (1) through (37) above, as if fully set forth herein.
82. Chapter 501, Fla. Stat., Florida's Deceptive and Unfair Trade Practices Act is to be liberally construed to protect the consuming public, such as Plaintiff in this case, from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce.
83. Plaintiff is a consumer within the meaning of Fla. Stat. § 501.203(7).
84. Defendant engaged in trade and commerce within the meaning of Fla. Stat. § 501.203(8).
85. While FDUTPA does not define "deceptive" and "unfair," it incorporates by reference the Federal Trade Commission's interpretations of these terms. The FTC has found that a "deceptive act or practice" encompasses "a representation, omission or practice that is likely to mislead the consumer acting reasonably in the circumstances, to the consumer's detriment."
86. The Defendant recorded a counterfeit lien that was unlawful. Additionally, the lien claimed to attach the entirety of any settlement and all of her available insurance as opposed to just the amount of her medical bills.
87. The Plaintiff was damaged by virtue of the public filing of her private health information, indebtedness, invasion of her privacy, slander of credit and misrepresentation of Defendant's rights, and by the false assertion of the lien rights.

88. The materially false statements about the counterfeit lien as described above were unfair, unconscionable, and deceptive practices perpetrated on the Plaintiff which would have likely deceived a reasonable person under the circumstances.
89. The Defendant was on notice at all relevant and material times that the false representations and falsified liens as described above were being communicated to consumers. In fact, they were being mailed and recorded with all of their personal information.
90. As a result of the false representations and falsified liens Plaintiff has been damaged.
91. The Defendant engaged in unfair and deceptive trade practices in violation of Fl. Stat. §501.201 *et. seq.*
92. Pursuant to §§ 501.211(1) and 501.2105, Fla. Stat., Plaintiff is entitled to recover from Defendants the reasonable amount of attorneys' fees Plaintiff has incurred in representing her interests in this matter.

**WHEREFORE**, Plaintiff, ELIAJALYN NAZARIO, demands actual and statutory damages, attorney's fees, legal assistant fees, costs and prejudgment interest on all damages where such interest is allowable by law and such other and further relief as may be mete and proper.

**COUNT 6: INJUNCTIVE RELIEF as to Leigh Regional**

93. Plaintiff restates (1) through (37) above, as if fully set forth herein.
94. This is an action for injunctive relief under FCCPA and common law brought by the Plaintiffs and the Class against the Defendant.
95. The Plaintiff and the class members will suffer irreparable injury if the Defendant continues to record and collect on invalid and falsified liens that violate the law. The

Plaintiff and the members of the class have a clear legal right to seek an injunction requiring that the Defendant:

- a. Take all necessary steps to remove, withdraw and/or file satisfaction of its counterfeit liens and
- b. Cease and desist in the future from improperly and unlawfully recording and collecting on liens that are falsified and invalid.

96. The Plaintiff and the members of the class have no other adequate remedy at law.

97. The injunctive relief requested by the Plaintiff and the members of the class would not be contrary to the interest of the public generally.

98. The Plaintiff has retained the undersigned counsel to prosecute this action and is entitled to recovery of their reasonable attorney's fees and costs pursuant to Florida Statutes § 501.2105 and 501.211.

**WHEREFORE**, Plaintiff, ELIAJALYN NAZARIO, demands actual and statutory damages, attorney's fees, legal assistant fees, costs and prejudgment interest on all damages where such interest is allowable by law and such other and further relief as may be meted and proper.

**COUNT 7: INJUNCTIVE RELIEF as to Professional Account Services, Inc.**

99. Plaintiff restates (1) through (37) above, as if fully set forth herein.

100. This is an action for injunctive relief under FCCPA and common law brought by the Plaintiffs and the Class against the Defendant.

101. The Plaintiff and the class members will suffer irreparable injury if the Defendant continues to record and collect on invalid and falsified liens that violate the law. The

Plaintiff and the members of the class have a clear legal right to seek an injunction requiring that the Defendant:

- a. Take all necessary steps to remove, withdraw and/or file satisfaction of its counterfeit liens and
- b. Cease and desist in the future from improperly and unlawfully recording and collecting on liens that are falsified and invalid.

102. The Plaintiff and the members of the class have no other adequate remedy at law.

103. The injunctive relief requested by the Plaintiff and the members of the class would not be contrary to the interest of the public generally.

104. The Plaintiff has retained the undersigned counsel to prosecute this action and is entitled to recovery of their reasonable attorney's fees and costs pursuant to Florida Statutes § 501.2105 and 501.211.

**WHEREFORE**, Plaintiff, ELIAJALYN NAZARIO, demands actual and statutory damages, attorney's fees, legal assistant fees, costs and prejudgment interest on all damages where such interest is allowable by law and such other and further relief as may be mete and proper.

**COUNT 8: DECLARATORY RELIEF as to Lehigh Regional**

105. This is a cause of action for declaratory relief against Defendant to declare certain of its offending practices to be unlawful and in violation of the FCCPA.

106. Plaintiff restates (1) through (37) above, as if fully set forth herein.

107. The Defendant's continued violation of the FCCPA against Plaintiff and other Florida citizens is repugnant to the public welfare and offends the long-standing public policy of this State to protect innocent consumers from predatory, abusive and fraudulent



collection practices.

108. Plaintiff has no adequate remedy at law.

109. The Defendant denies that it is in violation of the aforesaid statutes and laws.

110. Plaintiff is uncertain as to her rights under the FCCPA. Plaintiff seeks the Court to exercise its statutory and/or equitable jurisdiction to declare the rights of the parties under the statute.

111. The Defendant has or will continue the aforesaid unlawful conduct now and into the future unless declaratory relief issues declaring the conduct unlawful.

112. The FCCPA and Chapter 86, The Declaratory Judgment Act empowers and confers upon this Court the necessary and statutory jurisdiction and authority to “declare” the rights of the parties under the FCCPA.

113. Plaintiff hereby invokes the Court’s equitable jurisdiction to declare the following as violations of the FCCPA:

a) Recording a lien with no legal basis authority to do so and then attempting to collect on same.

114. Plaintiff was forced to retain undersigned counsel and have or will incur substantial attorney’s fees, legal assistant fees and costs.

115. Plaintiff, as a prevailing party, are entitled to an award of attorney’s fees, legal assistant fees and costs of this action, pursuant to the provisions of the FCCPA.

**WHEREFORE**, Plaintiff, ELIAJALYN NAZARIO, prays for declaratory relief, attorney’s fees, legal assistant fees, costs, prejudgment interest on all damages where such interest is allowable by law and such other and further relief as may be mete and proper.

**COUNT 9: DECLARATORY RELIEF as to Professional Account Services, Inc.**

116. This is a cause of action for declaratory relief against Defendant to declare certain of its offending practices to be unlawful and in violation of the FCCPA.
117. Plaintiff restates (1) through (37) above, as if fully set forth herein.
118. The Defendant's continued violation of the FCCPA against Plaintiff and other Florida citizens is repugnant to the public welfare and offends the long-standing public policy of this State to protect innocent consumers from predatory, abusive and fraudulent collection practices.
119. Plaintiff has no adequate remedy at law.
120. The Defendant denies that it is in violation of the aforesaid statutes and laws.
121. Plaintiff is uncertain as to her rights under the FCCPA. Plaintiff seeks the Court to exercise its statutory and/or equitable jurisdiction to declare the rights of the parties under the statute.
122. The Defendant has or will continue the aforesaid unlawful conduct now and into the future unless declaratory relief issues declaring the conduct unlawful.
123. The FCCPA and Chapter 86, The Declaratory Judgment Act empowers and confers upon this Court the necessary and statutory jurisdiction and authority to "declare" the rights of the parties under the FCCPA.
124. Plaintiff hereby invokes the Court's equitable jurisdiction to declare the following as violations of the FCCPA:
- b) Recording a lien with no legal basis authority to do so and then attempting to collect on same.
125. Plaintiff was forced to retain undersigned counsel and have or will incur substantial attorney's fees, legal assistant fees and costs.

126. Plaintiff, as a prevailing party, are entitled to an award of attorney's fees, legal assistant fees and costs of this action, pursuant to the provisions of the FCCPA.

**WHEREFORE**, Plaintiff, ELIAJALYN NAZARIO, prays for declaratory relief, attorney's fees, legal assistant fees, costs, prejudgment interest on all damages where such interest is allowable by law and such other and further relief as may be mete and proper.

**JURY DEMAND**

Plaintiff demands trial by jury.

Dated this 17<sup>th</sup> day of October, 2016.

**VILES & BECKMAN, LLC**  
Attorneys for Plaintiff  
6350 Presidential Court, Suite A  
Fort Myers, Florida 33919  
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By: /s/Marcus W. Viles  
Marcus W. Viles Esquire  
Florida Bar Number: 0516971

/s/Maria R. Alaimo  
Maria R. Alaimo, Esquire  
Florida Bar Number: 103870

TO: Clerk of Courts  
COUNTY OF: Lee  
STATE OF: FL

December 1, 2015

**NOTICE OF HOSPITAL LIEN**

The undersigned hereby gives notice for and on behalf of, Lehigh Regional Medical Center, located at 1500 Lee Blvd , Lehigh Acres, FL 33936 (hereinafter 'Hospital'), that the Hospital has furnished hospital care, treatment and/or maintenance, all of which was medically necessary, to the following patient: ELIAJALYN NAZARIO, 27860 TEMPLE TERRANCE DR, BONITA SPRINGS, FL 34135 from 11/07/15 to 11/07/15 due to injuries sustained in and/or by a motor vehicle or other liability accident, on or around 11/07/15 and the amount due for these services is \$3374.68, a sum that is a reasonable charge for the hospital care, services, treatment and/or maintenance rendered the above referenced patient.

The person(s), firm(s), corporations(s) or insurance companies claimed by the patient or his/her legal representative to be liable for damages arising from the illness or injuries cared for, treated and/or maintained by the hospital is/are:

**ALLSTATE INSURANCE PO BOX 660636 DALLAS TX 75266**  
**CLM#0390719045**

The Hospital, therefore, hereby creates a lien up to the maximum allowable amount of any obtained or recovered damages which the patient or his/her legal representative may receive or be entitled to receive, whether by judgment, settlement or compromise, from any and all causes of action, suits, claims, counterclaims or demands accruing to the patient, all in accord with the provisions of the laws of the State of FL.

**STATE OF TENNESSEE**  
**COUNTY OF DAVIDSON**

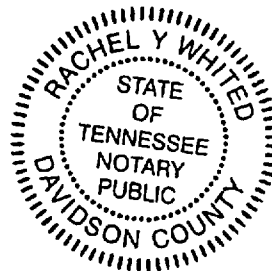
The foregoing was acknowledged and verified before me on the date first written above by the duly authorized agent and/or operator of the Hospital identified herein, for and on behalf of said Hospital:

  
Notary Public

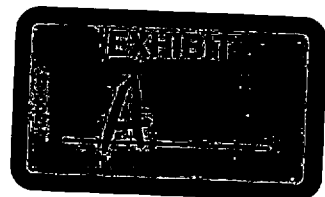
My Commission Expires: 5/8/2018

Prepared by: Professional Account Services, Inc.

By:   
Professional Account Services, Inc. - Lien Unit  
Suite 195  
7100 Commerce Way  
Brentwood, TN 37027  
Phone: (888) 489-6745



55927287-KLS



# CIVIL COVER SHEET

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.)

## (A) PLAINTIFFS

ELIAJALYN NAZARIO

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

(c) Attorney (Firm Name, Address, and Telephone Number)  
Marcus Viles Esq. & Maria Alaimo, Esq.  
Viles & Beckman, LLC  
6350 Presidential Court Fort Myers, FL 33919

## DEFENDANTS

Professional Account Services, Inc.  
Prime Healthcare Services

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

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

2016 OCT 18 AM 9:07

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

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 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)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 424 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 IIIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

FDCPA, 15 USC 1692

Brief description of cause:

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ 75,000.01

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 10/17/2016

SIGNATURE OF ATTORNEY OF RECORD

## FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

REC # FLM 10083

2:16-cv-772-FLM-gqmem

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Professional Account Services Up Against FDICPA Class Action](#)

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