

**STATE OF NEW MEXICO
THIRD JUDICIAL DISTRICT COURT
COUNTY OF DONA ANA**

**LAS CRUCES MEDICAL CENTER, LLC, dba
MOUNTAIN VIEW REGIONAL MEDICAL CENTER,
Plaintiff,**

vs.

**Case No. D-307-CV-2022-01051
Judge: CASEY B. FITCH**

**RUBY RAMIREZ,
Defendant.**

**RUBY RAMIREZ,
on behalf of herself and other
individuals similarly situated,
Counterclaim Plaintiff,**

vs.

**LAS CRUCES MEDICAL CENTER, LLC, dba
MOUNTAIN VIEW REGIONAL MEDICAL CENTER;
and FABER & BRAND, LLC,
Counterclaim Defendants.**

**ANSWER AND CLASS COUNTERCLAIM FOR DAMAGES AND FOR
DECLARATORY AND INJUNCTIVE RELIEF**

Defendant Ruby Ramirez, by and through counsel of record, The New Mexico Center on Law and Poverty (Sovereign Hager and Nicolas Cordova) and Treinen Law Office, PC (Rob Treinen), in answer to the allegations in the Complaint for Money Due on Account (the Complaint) filed by Plaintiff Las Cruces Medical Center, LLC, states:

1. Defendant admits the allegation set forth in Paragraph 1 of the Complaint.

2. Defendant admits to the section of Paragraph 2 of the Complaint alleging her county of residence. The remaining allegations in Paragraph 2 of the Complaint contain, in part, legal conclusions to which no response is required. To the extent a response is required, Defendant lacks sufficient knowledge or information to admit or deny the allegations therein and therefore denies the same.

3. Defendant denies the allegations set forth in Paragraph 3 of the Complaint.

4. Defendant denies the allegations set forth in Paragraph 4 of the Complaint.

5. Defendant denies the allegations set forth in Paragraph 5 of the Complaint.

6. Defendant denies the allegations set forth in Paragraph 6 of the Complaint.

7. Defendant denies the allegations set forth in Paragraph 7 of the Complaint.

8. Defendant denies the allegations set forth in Paragraph 8 of the Complaint.

9. Defendant denies the allegations set forth in Paragraph 9 of the Complaint.

10. Defendant denies the allegations set forth in Paragraph 10 of the Complaint.

11. Defendant admits the allegation in the introductory sentence of Paragraph 11 of the Complaint. Defendant admits to subparagraph (a) of Paragraph 11 of the Complaint. Defendant lacks sufficient knowledge or information to admit or deny all other allegations set forth in subparagraphs (b) to (i) of Paragraph 11 of the Complaint.

12. Plaintiff's prayer for relief contains requests for relief to which no response is required. To the extent a response is required, Defendant denies the same and denies Plaintiff's entitlement to the relief requested.

13. Defendant denies any and all claims in the Complaint that are not herein specifically admitted.

FIRST AFFIRMATIVE DEFENSE

The Complaint and claim for relief set forth in the Complaint fail to state a claim upon which relief can be granted against Defendant.

SECOND AFFIRMATIVE DEFENSE

The claims and cause of action contained in the Complaint are barred by the doctrine of unclean hands.

WHEREFORE, Defendant respectfully requests the Court to dismiss Plaintiff's Complaint, with prejudice, and for such other relief as this Court deems just and proper.

CLASS COUNTERCLAIM

INTRODUCTION

1. This is a class action to prevent Counterclaim Defendants Las Cruces Medical Center, LLC, and Faber & Brand, LLC, from unlawfully pursuing medical debt collection actions against hundreds of low-income New Mexico patients. Counterclaim Plaintiff Ruby Ramirez seeks damages and declaratory and injunctive relief.

2. Effective July 1, 2021, the New Mexico Patients' Debt Collection Protection Act (PDCPA), NMSA §§ 57-32-1 to -10 (2021), prohibits any person or entity from engaging in medical debt "collection actions"—i.e., actions requiring the legal or judicial process, such as initiating civil actions and garnishing wages—against a person with a household income at or below 200 percent of the federal poverty level. The PDCPA's implementing regulations require all persons and entities to verify a person's household income before pursuing medical debt collection actions.

3. Las Cruces Medical Center unlawfully pursues medical debt collection actions by filing hundreds of civil complaints, motions for default judgment, applications for writs of

garnishment, and other actions requiring the legal or judicial process to recover on medical debt—without first verifying whether the alleged and judgment debtors’ incomes qualify them for protection from such collection actions under the PDCPA.

4. Counterclaim Plaintiff has a household income that qualifies her for protection from collection actions under the PDCPA.

5. Even though Counterclaim Plaintiff’s low income entitles her to the PDCPA’s protection from collection actions, Las Cruces Medical Center, by and through Faber & Brand, filed a collection action against her in violation of the law. Las Cruces Medical Center filed a civil action against Counterclaim Plaintiff on July 14, 2022. Las Cruces Medical Center filed this collection action against Counterclaim Plaintiff without first determining whether her household income qualified her for protection from this action under the PDCPA. Las Cruces Medical Center has filed and will continue to pursue similarly unlawful collection actions such as civil complaints, motions, and garnishment proceedings in other cases against low-income New Mexicans—unless this Court takes action.

6. Faber & Brand unlawfully files medical debt collection actions against patients on behalf of Las Cruces Medical Center without first inquiring of the hospital whether the patients had been determined to be indigent patients.

7. Pursuant to the PDCPA, the Unfair Practices Act (UPA), NMSA 1978, §§ 57-12-1 to -26 (2019), the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. §§ 1692 to 1692p (1977, as amended through 2010), and the Declaratory Judgment Act, NMSA 1978, §§ 44-6-1 to -15 (1975), Counterclaim Plaintiff seeks damages, declaratory relief, and injunctive relief requiring Counterclaim Defendants to comply with state law.

THE PATIENTS' DEBT COLLECTION PROTECTION ACT

8. In 2021, the Legislature enacted the PDCPA, which went into effect on July 1, 2021. *See* 2021 N.M. Laws, ch. 31, § 14 (establishing the effective date).

9. The PDCPA's provisions apply to "medical creditors" and "health care facilities" such as Las Cruces Medical Center, and "medical debt collectors" such as Faber & Brand. *See* §§ 57-32-2(D) (defining "health care facility" as "a health facility required to be licensed by the department of health," which includes a public hospital, for-profit private hospital, or non-profit private hospital under the New Mexico Public Health Act), -2(H) (defining "medical creditor" as "a person that provides health care services and to whom the consumer owes money for those services"), and -2(K) (defining "medical debt collector" as "a person that regularly collects or attempts to collect, directly or indirectly, medical debts originally owed or due or asserted to be owed or due to another person").

10. The PDCPA's legislative intent is to protect "indigent patients" from "collection actions" taken to recover on medical debt.

11. An "indigent patient" is defined under the PDCPA as a patient with a household income at or below 200 percent of the federal poverty level. Section 57-32-2(G).¹

12. "Collection actions" is defined as any "actions that require a legal or judicial process, including" "commencing a civil action against a person," "placing a lien on a person's property," "attaching or seizing a person's bank account or any other personal property," and "garnishing a person's wages." Section 57-32-2(A)(2).

13. "Medical debt" is defined as "a debt arising from the receipt of health care services." Section 57-32-2(I); *see also* § 57-32-2(E) (defining "health care services").

¹ A person's household income relative to the federal poverty line, which is updated on an annual basis, is determined based on their household size. *See Annual Update of the HHS Poverty Guidelines*, 87 Fed. Reg. 3,315 (Jan. 21, 2022) (reflecting the 2022 federal poverty line).

14. The PDCPA bars the use of collection actions to recover upon medical debt of indigent patients: “For patients who are determined to be indigent patients, charges for health care services and medical debt *shall not be pursued through collection actions.*” Section 57-32-4(A) (emphasis added).

15. The PDCPA further requires the termination of current medical debt collection actions against indigent patients: “All collection actions through which charges for health care services and medical debt are pursued *shall be terminated upon the determination that a patient is an indigent patient.*” *Id.* (emphasis added).

16. Finally, the law prohibits persons from engaging third parties to take these prohibited actions on their behalf: “Health care facilities . . . and medical creditors shall not hire or otherwise engage third parties to perform collection actions against or otherwise recover debts from indigent patients.” *Id.*

17. The PDCPA authorizes the Office of the Superintendent of Insurance (OSI) to promulgate regulations “to establish the process by which a patient is determined to be an indigent patient for purposes of [the PDCPA].” Section 57-32-4(B).

18. The OSI issued permanent regulations, effective as of December 28, 2021, providing that a “determination whether a patient is an indigent patient shall be made *before collection action is pursued* against the patient.” NMAC 13.10.39.9 (emphasis added). A medical creditor or medical debt collector must make a minimum of three documented “efforts to contact the patient” to make this determination, after which point the patient may be deemed “noncooperative” and the medical creditor or medical debt collector may pursue a collection action against the patient. NMAC 13.10.39.9(A)(b). Unless the patient is “noncooperative,” a “failure to make a determination of indigency does not waive the prohibition on collection action

against indigent patients[.]” *Id.* The permanent regulations further provide that “the determination of a patient’s indigency is valid for 24 months.” NMAC 13.10.39.9(B)(f).

19. As the hearing officer presiding over the PDCPA’s rulemaking process explained in the findings and conclusions—which the OSI adopted in its final order adopting the permanent regulations—with respect to the interplay between the 24-month validity of an indigency determination *and* the general prohibition from pursuing collection actions against alleged debtors for whom there is no determination of indigency: “Of course, even when the determination of indigency ends, the medical creditor [or medical debt collector] will need to make another determination before initiating a collection action.” *In re Adoption of Rules for Patients’ Debt Collection Protections*, “Hearing Officer’s Findings, Conclusions, and Recommendations 13.10.39 NMAC,” ¶ 105 (Dec. 16, 2021), available at <https://bit.ly/3OnjCuP>; *see also In re Adoption of Rules for Patients’ Debt Collection Protections*, “Final Order Adopting Rule,” 2 (Dec. 16, 2021), available at <https://bit.ly/3OnjCuP> (adopting the hearing officer’s findings and conclusions).

20. The OSI’s permanent regulations further require medical debt collectors to “inquire of the medical creditor on behalf of whom it is pursuing collection against a patient, whether that patient had been determined indigent.” NMAC 13.10.39.9(G).

21. The effect of the permanent regulations is that: (1) a medical creditor or medical debt collector is prohibited from pursuing a collection action against alleged debtors for whom the medical creditor or medical debt collector has not made a determination of indigency; (2) a medical debt collector must verify with the medical creditor on behalf of whom it is pursuing collection whether the medical creditor made a determination of indigency; (3) upon the determination that an alleged debtor is indigent, a medical creditor or medical debt collector is

prohibited from pursuing a collection action against the alleged debtor during the 24-month validity of the indigency determination; and (4) upon the expiration of the 24-month validity period of an indigency determination, the medical creditor or medical debt collector must re-determine whether the alleged debtor is indigent before pursuing a collection action.

22. The permanent regulations permit patients to establish their indigency through a signed attestation as to household income and size. NMAC 13.10.39.9(C), (E)(d); *see also* NMAC 13.10.39.9(D)(d) (07/01/2021) (this requirement was also included in emergency regulations promulgated by the OSI and has thus been in effect since July 1, 2021).

23. The PDCPA permits individuals to seek legal or equitable relief to enforce the protections afforded by the law. Section 57-32-9(A).

VENUE

24. Venue for this action lies in the Third Judicial District Court, pursuant to NMSA 1978, Section 38-3-1 (1988). Counterclaim Plaintiff is a resident of Dona Ana County. The cause of action originated in Dona Ana County.

PARTIES

25. Counterclaim Plaintiff Ruby Ramirez is a mother of two children and lives in Las Cruces, New Mexico. Although Counterclaim Plaintiff works full-time, she nevertheless has an income that is below 200 percent of the federal poverty level and therefore qualifies as an “indigent patient” as defined under the PDCPA.

26. Las Cruces Medical Center is a foreign limited liability corporation registered in Delaware. Las Cruces Medical Center owns and operates the hospital facility Mountain View Regional Medical Center in Las Cruces, New Mexico, and is a “health care facility” and “medical creditor” as defined under the PDCPA.

27. Faber & Brand is a foreign limited liability corporation registered in Missouri. Faber & Brand attorneys are attorney debt collectors whose principal business is the collection of consumer debts. It regularly collects or attempts to collect debts originally owed or due or asserted to be owed or due another. Las Cruces Medical Center assigned to Faber & Brand the right to pursue the recovery of medical debt allegedly owed to it including through filing civil actions, pursuing garnishment proceedings, and pursuing other actions requiring the legal or judicial process in New Mexico. Faber & Brand is a “medical debt collector” as defined under the PDCPA and a “debt collector” as defined by the FDCPA.

COUNTERCLAIM DEFENDANTS UNLAWFULLY PURSUE COLLECTION ACTIONS TO RECOVER UPON MEDICAL DEBT

28. This is an action to protect low-income New Mexicans from being subjected to unlawful medical debt collection actions.

29. Las Cruces Medical Center attempts to recover alleged medical debt by initiating civil actions, filing motions for and obtaining default judgments, filing applications for and obtaining writs of garnishment, garnishing wages, and employing other actions requiring the legal or judicial process—against persons who by law are protected from such actions.

30. Civil complaints, motions for default judgment, applications for writs of garnishment, judgments on writs of garnishment, and any other action requiring the legal or judicial process for the recovery of medical debt are “collection actions,” which the PDCPA expressly prohibits against persons with household incomes at or below 200 percent of the federal poverty level. §§ 57-32-2(A)(2), -2(G), and -4(A).

31. The PDCPA’s permanent regulations, effective as of December 28, 2021, require all persons and entities pursuing medical debt collection actions to first determine whether the patient’s income qualifies them as an indigent patient. NMAC 13.10.39.9.

32. The PDCPA prohibits health care facilities and medical creditors from hiring or otherwise engaging third parties to perform collection actions against or otherwise recover medical debt from indigent patients. Section 57-32-4(A).

33. Las Cruces Medical Center, by and through Faber & Brand, filed a civil complaint against Counterclaim Plaintiff on July 14, 2022 for alleged medical debt stemming from care provided at Mountain View Regional Medical Center in 2021, without determining whether Counterclaim Plaintiff's income qualified her as an indigent patient.

34. Since the effective date of the PDCPA's permanent regulations, Las Cruces Medical Center, by and through Faber & Brand, has filed over 260 civil actions to recover alleged medical debt, filed motions for default judgment in 49 cases, and obtained default judgments in 40 cases. After the New Mexico Supreme Court on February 1, 2022 lifted the stay of issuance of writs of garnishment in all consumer debt collection cases, *see* Supreme Court Order No. 21-8500-018 (Aug. 2, 2021), *available at* <https://bit.ly/3v2gltS>, Las Cruces Medical Center, by and through Faber & Brand, filed applications for and obtained writs of garnishment in 31 cases.

35. As in Counterclaim Plaintiff's case, Las Cruces Medical Center pursues these collection actions without first verifying whether the individual against whom they are pursuing the action is an indigent patient. As a consequence of Las Cruces Medical Center's "file first, ask questions later" approach to recovering on medical debt, many indigent patients are subjected to unlawful collection actions and the collateral consequences of such actions.

36. The PDCPA's permanent regulations further prohibit medical debt collectors from pursuing collection actions against patients without inquiring of the medical creditor on behalf of

whom it is pursuing collection against patients whether those patients were determined to be indigent. NMAC 13.10.39.9(G).

37. Faber & Brand filed the above captioned case on behalf of Las Cruces Medical Center without inquiring of the hospital whether it determined Counterclaim Plaintiff to be an indigent patient.

38. As in Counterclaim Plaintiff's case, Faber & Brand files the collection actions pursued since the effective date of the permanent regulations without first inquiring of Las Cruces Medical Center whether the patients against whom they are filing these actions have been determined to be indigent patients.

39. New Mexico residents are particularly vulnerable to, and yet should be protected from, the aggressive medical debt collection practices pursued by Las Cruces Medical Center. Nearly 40 percent of New Mexico residents have household incomes at or below 200 percent of the federal poverty level. *See* U.S. Census Bureau, *Table S1701 Poverty Status in the Past 12 Months, 2020*, available at <https://bit.ly/3JjOJUO>.

40. Indigent patients against whom Counterclaim Defendants have filed lawsuits or obtained judgments for medical debt are likely to be damaged by their practice of recovering on medical debt through unlawful collection actions. Indigent patients against whom Counterclaim Defendants have obtained writs of garnishment are not only unlawfully deprived of wages, money, or property they need to support their families, they are also forced to deplete their assets to stay afloat financially and struggle to get back on their feet due to significant, adverse impacts these actions have on their credit.

CLASS ALLEGATIONS

41. Counterclaim Plaintiff is the representative of a class of persons with addresses in New Mexico, as shown by Counterclaim Defendants' records, and against whom Counterclaim Defendants pursue actions that require the legal or judicial process for the recovery of medical debt and that are filed on or after December 28, 2021.

42. The class is so numerous that joinder of all members is impracticable. Counterclaim Plaintiff believes the number of members of the class exceeds 200 persons.

43. This action is predicated on standard practices of Counterclaim Defendants, which use identical practices to pursue collection actions against individuals.

44. Counterclaim Defendants have acted on grounds generally applicable to the class, thereby making damages, injunctive relief, and the corresponding declaratory relief appropriate with respect to the class as a whole.

45. This case involves questions of law or fact common to the class, which Counterclaim Plaintiff has recited in detail throughout this Counterclaim. These questions predominate over any questions affecting only individual class members. The common questions include:

- a. Whether Counterclaim Defendants' conduct constitutes violations of the PDCPA;
- b. Whether Counterclaim Defendants' conduct constitutes violations of the UPA; and
- c. Whether Faber & Brand's conduct constitutes violations of the FDCPA.

46. Counterclaim Plaintiff's claims are typical of the class members. All claims are based on the same factual and legal theories. All claims arise from the same uniform business practices.

47. Counterclaim Plaintiff will fairly and adequately represent the class. Counterclaim Plaintiff is committed to litigating this matter. Counterclaim Plaintiff has retained counsel experienced in handling class claims and claims involving unlawful business practices. Neither Counterclaim Plaintiff nor class counsel have any interests that might cause them not to pursue this claim vigorously.

48. A class action is superior for the fair and efficient adjudication of the class members' claims. Class members are frequently unaware that their legal rights have been violated. Individuals against whom medical debt collection actions are pursued typically cannot afford legal counsel to engage in individual litigation against Counterclaim Defendants. A failure of justice will result in the absence of a class action.

COUNT I — LAS CRUCES MEDICAL CENTER'S VIOLATIONS OF THE PATIENTS' DEBT COLLECTION PROTECTION ACT

49. As a matter of practice, Las Cruces Medical Center, by and through Faber & Brand, files civil complaints, motions for default judgment, and applications for writs of garnishment and garnishes wages to recover upon medical debt without first determining whether the individual's household is above 200 percent of the federal poverty level. Pursuing these collection actions without first determining an individual's household income is in direct violation of the PDCPA and its implementing regulations.

COUNT II — FABER & BRAND'S VIOLATIONS OF THE PATIENTS' DEBT COLLECTION PROTECTION ACT

50. As a matter of practice, when Faber & Brand files collection actions against patients on behalf of Las Cruces Medical Center, it does not inquire of the hospital whether those

patients have been determined to be indigent patients. Filing these collection actions without requesting confirmation from the medical creditor that the patients are not indigent is in direct violation of the PDCPA and its implementing regulations.

**COUNT III — LAS CRUCES MEDICAL CENTER’S AND FABER & BRAND’S
VIOLATIONS OF THE UNFAIR PRACTICES ACT**

51. The UPA prohibits unfair, deceptive, and unconscionable trade practices in the collection of debt in New Mexico. Section 57-12-3 (prohibiting these practices); *see* §§ 57-12-2(D) and -2(E) (defining these practices).

52. For a party to prove that a defendant engaged in an “unfair or deceptive trade practice,” the party must prove that: (1) the defendant made an oral or written statement, a visual description, or a representation of any kind that was false or misleading; (2) the false or misleading representation was knowingly made in the collection of debts and in the regular course of the defendant’s business; and (3) the representation was of the type that may, tends to, or does deceive or mislead any person. *Lohman v. Daimler-Chrysler Corp.*, 2007-NMCA-100, ¶ 5, 142 N.M. 437, 166 P.3d 1091.

53. By pursuing collection actions without first determining an individual’s household income and by other false or deceptive representations or actions related to alleged medical debt, Counterclaim Defendants falsely represent their entitlement to recover upon medical debt through the collection actions. Counterclaim Defendants knowingly make these false representations in the collection of medical debt and in the regular course of Counterclaim Defendants’ respective businesses. These false representations are of the type that may, tend to, or do deceive or mislead persons. Accordingly, these representations are unfair or deceptive trade practices, which are prohibited by the UPA.

54. Faber & Brand's practice in the collection of Las Cruces Medical Center's medical debt through civil proceedings without first inquiring of the hospital whether the alleged debtors have been determined to be indigent patients misrepresents their legal ability to file such actions.

55. To prove that a defendant engaged in an "unconscionable trade practice," a party must prove that the defendant engaged in "an act or practice . . . in the collection of debts that to a person's detriment" "takes advantage of the lack of knowledge, ability, experience or capacity of a person to a grossly unfair degree[.]" Section 57-12-2(E).

56. Las Cruces Medical Center's practice in the collection of medical debt through civil proceedings without first determining the alleged debtor's household income takes advantage of the alleged debtor's lack of knowledge, ability, experience, or capacity to a grossly unfair degree. Accordingly, this practice is an unconscionable trade practice, which is prohibited by the UPA.

57. Under the UPA, "[a] person likely to be damaged by an unfair or deceptive trade practice or by an unconscionable trade practice of another may be granted an injunction against it under the principles of equity and on terms that the court considers reasonable." Section 57-12-10(A). "Proof of monetary damage, loss of profits or intent to deceive or take unfair advantage of any person is not required." *Id.*

58. Counterclaim Defendants pursue collection actions without first verifying whether the individual against whom they are pursuing collection actions is an indigent patient. As a result, individuals with household incomes at or below 200 percent of the federal poverty level are subjected to unlawful civil actions, judgments, and post-judgment proceedings. Even if these actions are later dismissed, they may nevertheless cause irreparable injury to the patients.

Although an indigent patient is able to individually move to quash a writ of garnishment issued to satisfy a judgment in a medical debt case, the post-judgment proceedings may nevertheless cause irreparable injury by depriving the individual of money the individual needs to pay for basic living expenses. Moreover, the collateral consequences of these proceedings, such as reporting adverse information to a consumer credit reporting agency or credit bureau, impact the individual's ability to borrow money or access goods or services.

COUNT IV — FABER & BRAND'S VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

59. The FDCPA prohibits debt collectors from taking certain measures in the collection of any debt. The FDCPA defines a "debt collector" as "any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due asserted to be owed or due another." 15 U.S.C. § 1692a(6).

60. The FDCPA prohibits debt collectors from "us[ing] any false, deceptive, or misleading representation or means in connection with the collection of any debt." 15 U.S.C. § 1692e. Prohibited conduct includes but is not limited to:

a. "The false representation of . . . the character, amount, or legal status of any debt," 15 U.S.C. § 1692(2)(A);

b. "The representation or implication that nonpayment of any debt will result in the . . . seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector or creditor intends to take such action," 15 U.S.C. § 1692(4);

c. "The threat to take any action that cannot legally be taken," 15 U.S.C. § 1692(5); and

d. “The use of any false representation or deceptive means to collect or attempt to collect any debt,” 15 U.S.C. § 1692(10).

61. The FDCPA also prohibits debt collectors from “us[ing] unfair or unconscionable means to collect or attempt to collect any debt.” 15 U.S.C. § 1692f.

62. Faber & Brand uses false, deceptive, and misleading representations or means in connection with the collection of medical debt and uses unfair or unconscionable means to collect or attempt to collect medical debt, by:

a. Filing medical debt collection actions without inquiring of Las Cruces Medical Center whether the alleged debtors have been determined to be indigent patients under the PDCPA;

b. Filing medical debt collection actions in cases where Counterclaim Defendants have not determined whether the alleged debtors are indigent patients, which misrepresents the legal status of the medical debt and threatens an action that cannot legally be taken; and

c. Filing prohibited collection actions, which falsely represents that nonpayment of medical debt will result in seizure, garnishment, or attachment of property or wages.

PRAYER FOR RELIEF

WHEREFORE, Counterclaim Plaintiff prays that this Court:

1. Certify this case as a class action and appoint counsel below to represent the class;
2. Declare Counterclaim Defendants’ practices as outlined above in connection with the collection of medical debt as unlawful under the PDCPA and unfair, deceptive, and unconscionable trade practices under the UPA;

3. Declare Faber & Brand's practices as outlined above in connection with the collection of medical debt as unlawful under the FDCPA;

4. Enjoin Counterclaim Defendants from filing all medical debt collection actions requiring the legal or judicial process against (a) a person who is determined to be an indigent patient and (b) a person for whom Counterclaim Defendants have not made a determination whether the person is an indigent patient;

5. Order Counterclaim Defendants to terminate all medical debt collection actions requiring the legal or judicial process that Counterclaim Defendants filed (a) against a person who is determined to be an indigent patient, and (b) on or after December 28, 2021 against a person for whom Counterclaim Defendants have not made a determination whether the person is an indigent patient, by dismissing pending civil actions, vacating default judgments, releasing writs of garnishment, and vacating judgments on writs of garnishment issued to satisfy judgments entered on causes of action to recover upon medical debt;

6. Order Counterclaim Defendants to delete any adverse information reported to a consumer credit reporting agency or credit bureau concerning any medical debt collection action requiring the legal or judicial process that Counterclaim Defendants filed (a) against a person who is determined to be an indigent patient, and (b) on or after December 28, 2021 against a person for whom Counterclaim Defendants have not made a determination whether the person is an indigent patient;

7. Order Counterclaim Defendants to return any wages or money it received pursuant to garnishment proceedings in a cause of action to recover upon medical debt that Counterclaim Defendants filed (a) against a person who is determined to be an indigent patient,

and (b) on or after December 28, 2021 against a person for whom Counterclaim Defendants have not made a determination whether the person is an indigent patient;

8. Award Counterclaim Plaintiff \$1,000 in additional damages, pursuant to 15 U.S.C. § 1692k(a)(2)(B)(i);

9. Award the other class members the lesser of \$500,000 or one percent of Faber & Brand's net worth, pursuant to 15 U.S.C. § 1692k(2)(B)(ii);

10. Award Counterclaim Plaintiff a class representative service award;

11. Require Counterclaim Defendants to pay all attorney fees and costs associated with bringing this action; and

12. Grant such further relief that is just and reasonable under the circumstances.

Respectfully Submitted,

/s/ Sovereign Hager
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/s/ Nicolas Cordova
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ATTORNEYS FOR DEFENDANT RUBY RAMIREZ AND COUNTERCLAIM PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on October 11, 2022, a true and correct copy of the preceding pleading was served pursuant to the Court's electronic filing system to the following party:

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