

STATE OF SOUTH CAROLINA)
 COUNTY OF SPARTANBURG)
)
 Jo Ann Blackwell, Michelene Brooks,)
 and Samuel H. Owens, Jr., individually)
 and on behalf of all others similarly)
 situated,)
)
 Plaintiffs,)
)
 v.)
)
 Mary Black Health System, LLC, d/b/a)
 Mary Black Memorial Hospital; and)
 CHSPSC, LLC; Professional Account)
 Services, Inc.,)
)
 Defendants.)
)

IN THE COURT OF COMMON PLEAS
 SEVENTH JUDICIAL CIRCUIT

C.A. No. 2017-CP-42-00219

**DEFENDANT PROFESSIONAL
 ACCOUNT SERVICES, INC.’S ANSWER
 TO AMENDED COMPLAINT**

Subject to, without waiving, and specifically reserving the arguments raised by Defendant Professional Account Services, Inc. (“PASI”) in the dispositive motions previously filed with the Court and raised on appeal in Appellate Case No. 2020-001613, including the right to compel Plaintiff Samuel Owens to arbitrate his claims, PASI hereby answers Plaintiffs Jo Ann Blackwell, Michelene Brooks, and Samuel H. Owens, Jr.’s Amended Complaint (the “Complaint”) as follows:

FOR A FIRST DEFENSE

1. Each and every allegation of the Complaint not hereinafter specifically admitted is denied.
2. Answering Paragraph 1 of the Complaint, PASI denies that any legitimate class of Plaintiffs exists in connection with this action and denies that Plaintiffs are suitable representatives of any such class.
3. PASI admits, upon information and belief, the allegations set forth in Paragraph 2 of the Complaint to the extent they allege matters up to December 31, 2018. Further answering Paragraph 2 of the Complaint, PASI states, upon information and belief, that Mary Black’s assets

and operation were transferred to Spartanburg Regional Health Services District Inc. pursuant to an Asset Purchase Agreement with an effective date of December 31, 2018 at 11:59:59 p.m.

4. PASI denies the allegations in Paragraph 3 of the Complaint.

5. Answering Paragraph 4 of the Complaint, PASI admits, upon information and belief, that at some relevant times information is gathered in connection with patients receiving treatment at Mary Black regarding reasons for treatment, including motor vehicle accidents, and potential sources for payment for the services/treatment rendered.

6. PASI denies the allegations in Paragraph 5 of the Complaint.

7. PASI denies the allegations in Paragraph 6 of the Complaint.

8. PASI denies the allegations in Paragraph 7 of the Complaint.

9. PASI denies the allegations in Paragraph 8 of the Complaint.

10. Answering Paragraph 9 of the Complaint, PASI lacks sufficient information either to admit or deny the allegations therein and craves reference to any applicable policy, contract or insuring agreement for the terms and conditions thereof, and denies any allegations inconsistent therewith. Further answering Paragraph 9 of the Complaint, PASI avers that there are various agreements between insurers and Mary Black. PASI craves reference to any particular applicable agreement for the terms and conditions thereof and denies any allegations inconsistent therewith.

11. PASI denies the allegations in Paragraph 10 of the Complaint.

12. PASI denies the allegations in Paragraph 11 of the Complaint.

13. Answering Paragraph 12 of the Complaint, PASI lacks sufficient information either to admit or deny all of the allegations therein but does admit, upon information and belief, that on or about December 27, 2013, Plaintiff Jo Ann Blackwell presented at Mary Black and reported that she had injuries as a result of a motor vehicle accident. Further Answering Paragraph 12 of

the Complaint, PASI admits, upon information and belief, that Plaintiff Blackwell was released from the hospital, following her treatment there, on January 3, 2014.

14. Answering Paragraph 13 of the Complaint, PASI lacks sufficient information either to admit or deny all of the allegations therein but does admit, upon information and belief, that on or about February 28, 2016, Michelene Brooks presented at Mary Black and reported that she had injuries as a result of a motor vehicle accident.

15. Answering Paragraph 14 of the Complaint, PASI lacks sufficient information either to admit or deny all of the allegations therein but does admit, upon information and belief, that on or about October 9, 2015, Samuel Herbert Owens, Jr. presented at Mary Black and reported that he had injuries as a result of a motor vehicle accident.

16. Answering Paragraph 15 of the Complaint, PASI denies that Mary Black is organized or existing under the laws of South Carolina but admits, upon information and belief, that Mary Black is a limited liability company organized under the laws of the State of Delaware and admits the remaining allegations set forth in Paragraph 15 of the Complaint.

17. Answering Paragraph 16 of the Complaint, PASI admits, upon information and belief, that CHSPSC is a limited liability company that is organized under the laws of Delaware with its principal place of business in Tennessee. PASI denies the remaining allegations set forth in Paragraph 16 of the Complaint, including that CHSPSC bills patients or files liens within the state of South Carolina.

18. Answering Paragraph 17 of the Complaint, PASI admits that it is a Tennessee corporation with its principal place of business in Tennessee and that it performed billing and collection services for Mary Black.

19. PASI denies the allegations set forth in Paragraph 18 of the Complaint.

20. Answering Paragraph 19 of the Complaint, PASI is informed and believes that no response is required thereto. To the extent a response is required PASI denies the allegations set forth in Paragraph 19 of the Complaint and denies that it is proper or correct to refer to all Defendants collectively.

21. Answering Paragraph 20 of the Complaint, PASI is informed and believes that the allegations set forth therein are merely conclusions of law to which no response is required; however, to the extent any response is required, PASI denies that any of the Plaintiffs are properly qualified to represent any alleged or purported class but does not contest the Court's jurisdiction over the claims of the individual Plaintiffs Blackwell or Brooks at this time. Further Answering Paragraph 20 of the Complaint, PASI denies that the Spartanburg County Court of Common Pleas has jurisdiction over Plaintiff Owens's claims because Plaintiff Owens is required to arbitrate his claims against PASI and the other co-defendants.

22. Answering Paragraph 21 of the Complaint, PASI denies that any legitimate class of Plaintiffs exists in connection with this action and denies that Plaintiffs are suitable representatives of any such class.

23. Answering Paragraph 22 of the Complaint, PASI admits, upon information and belief, that Mary Black gathered information in connection with patients receiving treatment at Mary Black regarding the patients' reasons for treatment and potential sources for payment for the services/treatment rendered.

24. PASI denies the allegations set forth in Paragraph 23 of the Complaint.

25. PASI denies the allegations set forth in Paragraph 24 of the Complaint.

26. PASI denies the allegations set forth in Paragraph 25 of the Complaint.

27. PASI denies the allegations set forth in Paragraph 26 of the Complaint.

28. PASI denies the allegations set forth in Paragraph 27 of the Complaint.

29. Answering Paragraph 28 of the Complaint, PASI denies that it contracted with health insurance carriers who provided coverage to patients who received treatment at Mary Black.

30. Answering Paragraph 29 of the Complaint, PASI denies that it contracted with health insurance carriers who provided coverage to patients who received treatment at Mary Black.

31. Answering Paragraph 30 of the Complaint, PASI denies it had any contact with patients at the time treatment is rendered at Mary Black and, therefore, PASI admits it did not make any statements or representations to the patients at that time.

32. Answering Paragraph 31 of the Complaint, PASI lacks sufficient information either to admit or deny the allegations therein and craves reference to any applicable policy, contract or insuring agreement for the terms and conditions thereof, and denies any allegations inconsistent therewith. Further answering Paragraph 31 of the Complaint, PASI denies that it contracted with health insurance carriers who provided coverage to patients who received treatment at Mary Black.

33. PASI denies the allegations set forth in Paragraph 32 of the Complaint.

34. PASI denies the allegations set forth in Paragraph 33 of the Complaint.

35. PASI denies the allegations set forth in Paragraph 34 of the Complaint.

36. Answering Paragraph 35 of the Complaint, PASI lacks sufficient information either to admit or deny all of the allegations therein but does admit, upon information and belief, that on or about December 27, 2013, Plaintiff Jo Ann Blackwell presented at the Mary Black emergency room and reported that she had injuries as a result of a motor vehicle accident and Plaintiff Jo Ann Blackwell was discharged from Mary Black Memorial Hospital on or about January 3, 2014.

37. Answering Paragraph 36 of the Complaint, PASI admits, upon information and belief, that on or about the time of Plaintiff Blackwell's treatment Plaintiff Blackwell provided information related a health insurance policy issued by MedCost to Mary Black.

38. Answering Paragraph 37 of the Complaint, PASI admits, upon information and belief, that the total charges for Plaintiff Blackwell's treatment at Mary Black were \$33,093.65 and that reports of her charges were provided to State Farm (and not MedCost) with State Farm identified as the primary payor.

39. Answering Paragraph 38 of the Complaint, PASI denies it had any contact with Plaintiff Blackwell at the time she received medical treatment at Mary Black and, therefore, admits it did not inform Plaintiff Blackwell that it would not accept her health insurance or that it would pursue a third-party lien against her, and PASI further avers it has not pursued such a lien.

40. Answering Paragraph 39 of the Complaint, PASI lacks sufficient information either to admit or deny the allegations contained therein and, therefore, denies same.

41. Answering Paragraph 40 of the Complaint, PASI admits, upon information and belief that a claim for payment was sent to State Farm as primary payor but denies it asserted a lien.

42. Answering Paragraph 41 of the Complaint, PASI lacks sufficient information either to admit or deny all of the allegations therein but does admit, upon information and belief, that on or about February 28, 2016, Michelene Brooks presented at Mary Black and reported that she had injuries as a result of a motor vehicle accident.

43. Answering Paragraph 42 of the Complaint, PASI lacks sufficient information either to admit or deny the allegations contained therein and, therefore, denies same.

44. Answering Paragraph 43 of the Complaint, PASI admits that the total charges for Michelene Brooks's treatment at Mary Black were \$9,982.44. PASI further admits, upon information and belief, that collection of payment for the medical treatment rendered to Plaintiff Brooks was first attempted from the at-fault driver's automobile or liability insurance policy or plan, as required by the Medicare Act, 42 U.S.C.A. § 1395y(b)(2)(A)(ii).

45. Answering Paragraph 44 of the Complaint, PASI lacks sufficient information either to admit or deny the allegations contained therein and, therefore, denies same.

46. Answering Paragraph 45 of the Complaint, PASI admits it transmitted a claim for payment for the medial treatment rendered to Plaintiff Brooks to the attorneys representing Plaintiff Brooks in relation to her automobile accident.

47. Answering Paragraph 46 of the Complaint, PASI admits that on September 26, 2017, a representative from PASI sent a letter accepting a request from Plaintiff Brooks's counsel to settle her outstanding medical bill for \$4,991.22. Further Answering Paragraph 46 of the Complaint, PASI admits that on November 3, 2017, Plaintiff Brooks's attorney Tom A. Killoren Jr. sent a letter to PASI with a check from his law firm in the amount of \$4,991.22 enclosed.

48. Answering Paragraph 47 of the Complaint, PASI lacks sufficient information either to admit or deny all of the allegations therein but does admit, upon information and belief, that on or about October 9, 2015, Samuel Herbert Owens, Jr. presented at Mary Black and reported that he had injuries as a result of a motor vehicle accident.

49. Answering Paragraph 48 of the Complaint, PASI lacks sufficient information either to admit or deny the allegations contained therein and, therefore, denies same.

50. Answering Paragraph 49 of the Complaint, PASI admits that the total charges for Samuel Herbert Owens, Jr.'s treatment at Mary Black were \$9,086.75. Further answering Paragraph 49 of the Complaint, PASI admits that it did not submit a bill to Cigna for the medical services rendered to Plaintiff Owens.

51. Answering Paragraph 50 of the Complaint, PASI lacks sufficient information either to admit or deny the allegations contained therein and, therefore, denies same.

52. Answering Paragraph 51 of the Complaint, PASI admits that a claim for payment for the medical treatment rendered to Plaintiff Owens was transmitted to the attorneys representing Plaintiff Owens in relation to his automobile accident.

53. Answering Paragraph 52 of the Complaint, PASI admits that it received a request for a fifty percent (50%) reduction of the Plaintiff Owens's medical bills from the law firm representing Plaintiff Owens, and subsequently agreed to accept \$4,543.38 to settle Plaintiff Owens's account.

54. Answering Paragraph 53 of the Complaint, PASI admits that the Plaintiffs purport to bring the action as a class action pursuant to Rule 23 of the South Carolina Rules of Civil Procedure; however, PASI denies that the action qualifies for class treatment under Rule 23 and denies that the class as defined exists or is appropriate.

55. PASI denies the allegations set forth in Paragraph 54 of the Complaint.

56. PASI denies the allegations set forth in Paragraph 55 of the Complaint.

57. PASI denies the allegations set forth in Paragraph 56 of the Complaint.

58. PASI denies the allegations set forth in Paragraph 57 of the Complaint, including subparts (a) through (k).

59. PASI denies the allegations set forth in Paragraph 58 of the Complaint.

60. PASI denies the allegations set forth in Paragraph 59 of the Complaint.

61. PASI denies the allegations set forth in Paragraph 60 of the Complaint.

62. PASI denies the allegations set forth in Paragraph 61 of the Complaint.

63. PASI denies the allegations set forth in Paragraph 62 of the Complaint.

64. Answering Paragraph 63 of the Complaint, PASI repeats and realleges its answers to the allegations of the Complaint incorporated therein by reference as fully as if said answers were set forth here verbatim.

65. Answering Paragraph 64 of the Complaint, PASI craves reference to any applicable insurance policy or contract for the coverage and other terms and conditions thereof and denies any allegations inconsistent therewith.

66. PASI denies the allegations set forth in Paragraph 65 of the Complaint.

67. PASI denies the allegations set forth in Paragraph 66 of the Complaint.

68. PASI denies the allegations set forth in Paragraph 67 of the Complaint.

69. PASI denies the allegations set forth in Paragraph 68 of the Complaint.

70. Answering Paragraph 69 of the Complaint, PASI repeats and realleges its answers to the allegations of the Complaint incorporated therein by reference as fully as if said answers were set forth here verbatim.

71. PASI denies the allegations set forth in Paragraph 70 of the Complaint.

72. PASI denies the allegations set forth in Paragraph 71 of the Complaint. Further responding to the allegations set forth in Paragraph 71, PASI states that it received and has retained no payment or benefit conferred by or on behalf of Plaintiff Blackwell for the medical services provided to her between December 27, 2013 and January 3, 2014.

73. PASI denies the allegations set forth in Paragraph 72 of the Complaint.

74. PASI denies the allegations set forth in Paragraph 73 of the Complaint.

75. PASI denies the allegations set forth in Paragraph 74 of the Complaint.

76. Answering Paragraph 75 of the Complaint, PASI repeats and realleges its answers to the allegations of the Complaint incorporated therein by reference as fully as if said answers were set forth here verbatim.

77. PASI denies the allegations set forth in Paragraph 76 of the Complaint.

78. Answering Paragraph 77 of the Complaint, PASI craves reference to the applicable agreement for such particular insurer or third-party payor for the terms and conditions thereof and denies any allegations inconsistent therewith.

79. Answering Paragraph 78 of the Complaint, PASI craves reference to the applicable agreement for such particular insurer or third-party payor for the terms and conditions thereof and denies any allegations inconsistent therewith.

80. PASI denies the allegations set forth in Paragraph 79 of the Complaint.

81. PASI denies the allegations set forth in Paragraph 80 of the Complaint.

82. PASI denies the allegations set forth in Paragraph 81 of the Complaint.

83. PASI denies the allegations set forth in Paragraph 82 of the Complaint.

84. PASI denies the allegations set forth in Paragraph 83 of the Complaint.

85. Answering Paragraph 84 of the Complaint, PASI is informed and believes that no response is required thereto; however, to the extent any response is required, PASI denies same.

FOR A SECOND DEFENSE

86. Plaintiffs' Complaint fails to state facts sufficient to constitute a cause of action and, therefore, should be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

FOR A THIRD DEFENSE

87. Plaintiffs have waived the claims alleged and, therefore, the claims should be dismissed pursuant to the Doctrine of Waiver.

FOR A FOURTH DEFENSE

88. Plaintiffs, by their conduct, should be estopped from asserting the claims alleged and, therefore, Plaintiffs' claims should be dismissed pursuant to the Doctrine of Estoppel.

FOR A FIFTH DEFENSE

89. Plaintiffs' claims should be barred by the doctrine of Unclean Hands.

FOR A SIXTH DEFENSE

90. Plaintiffs have failed to mitigate their damages, if any, and their claims are barred or limited accordingly.

FOR A SEVENTH DEFENSE

91. Neither Plaintiff Blackwell, nor anyone on her behalf, has made any payment to or conferred any benefit upon PASI for the services and treatment rendered to her and, therefore, PASI has not been unjustly enriched.

FOR AN EIGHTH DEFENSE

92. There has been no breach of the third-party contract which was intentionally induced or caused by PASI and, therefore, there can be no tortious interference with an existing contractual relationship.

FOR A NINTH DEFENSE

93. PASI's actions were justified and were undertaken in good faith to protect its own legal interests; therefore, there can be no tortious interference with the contractual relationship.

FOR A TENTH DEFENSE

94. Plaintiffs have suffered no damages.

FOR AN ELEVENTH DEFENSE

95. Plaintiffs, and Plaintiffs' Complaint, do not satisfy the prerequisites for class action certification pursuant to Rule 23, SCRPC.

FOR A TWELFTH DEFENSE

96. Plaintiffs' Complaint fails to allege any basis for injunctive relief, including the failure to justify any finding of irreparable harm or lack of an adequate remedy at law.

FOR A THIRTEENTH DEFENSE

97. Plaintiff Brooks’s claims must be dismissed on the grounds that she failed to allege that she exhausted her administrative remedies under the Medicare Act prior to the filing of the Amended Complaint.

FOR A FOURTEENTH DEFENSE

98. Plaintiff Brooks’s claims fail as a matter of law because the Medicare Act, 42 U.S.C.A. § 1395y(b)(2)(A)(ii), requires health care providers, like Mary Black, to first collect payment from the automobile or liability insurance policy or plan—not Medicare—and, therefore, PASI cannot liable for Mary Black’s compliance with statutory obligations.

FOR A FIFTEENTH DEFENSE

99. Plaintiff Owens’s claims are barred by the voluntary payment doctrine.

FOR A SIXTEENTH DEFENSE

100. Plaintiff Brooks’s claims are barred by the voluntary payment doctrine.

FOR A SEVENTEENTH DEFENSE

101. The award of punitive damages, if any, is subject to the caps and limitations set forth in section 15-32-530 of the South Carolina Code, and PASI incorporates the terms of that statute as fully and effectually as if set forth verbatim herein.

FOR AN EIGHTEENTH DEFENSE

102. Plaintiff Owens’s claims are barred by the applicable statutes of limitation.

FOR A NINETEENTH DEFENSE

103. Plaintiff Blackwell’s claims fail as a matter of law on the grounds that Plaintiff Blackwell lacks standing to enforce the MedCost Agreement because that Agreement states that she is not an intended third-party beneficiary with the right to enforce the terms of that Agreement.

FOR A TWENTIETH DEFENSE

104. Plaintiff Owens's claims are subject to the arbitration provision in the CIGNA Agreement and must be compelled to arbitration.

FOR A TWENTY-FIRST DEFENSE

105. Plaintiffs' Complaint, and this action, is a frivolous lawsuit in violation of S.C. CODE ANN. § 15-36-10, *et.seq.* and, therefore, PASI requests the award of costs and fees upon the dismissal of this action as provided under the South Carolina Frivolous Proceedings Act.

WHEREFORE, having fully answered Plaintiffs' Complaint herein, PASI prays this Court enter its judgment as follows:

1. Dismissing Plaintiffs' claims against PASI, with prejudice;
2. Awarding PASI its costs in this matter; and
3. Awarding PASI such other and further relief as may be just and proper.

s/James Lynn Werner

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May 2, 2022
Columbia, South Carolina