

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

Jeremiah F. Jones,  
Teri Denice Mayers  
Kimberly Ann Williams

BK Nos. (respectively)

18-06304-dd, Chapter 7  
14-00864-dd, Chapter 7  
17-02620-dd, Chapter 7

Jeremiah Jones, Teri Denice Mayers and  
Kimberly Williams, individually and on  
behalf of all others similarly situated,

Plaintiffs

vs.

Lexington Health Services District, Inc.  
d/b/a Lexington Medical Center

Defendant.

Adv. Pro. No. \_\_\_\_\_

**COMPLAINT**

(Jury Trial Requested)

Plaintiffs Jeremiah Jones (“Plaintiff Jones”), Teri Denice Mayers (“Plaintiff Mayers”), and Kimberly Williams (“Plaintiff Williams”), individually and on behalf of all others similarly situated (collectively, “Plaintiffs”), complaining of the Defendant above-named, would show this Court:

**INTRODUCTION**

1. Over one-third of South Carolina’s population aged 65 and under have past-due medical bills.
2. Medical bills are one of the largest causes of bankruptcy filings, and comprise part of the scheduled debts in nearly every consumer bankruptcy filing.

3. In South Carolina, significant medical debt is owed by consumers to Defendant Lexington Health Services District, Inc. d/b/a Lexington Medical Center (“LMC”), a private non-profit hospital.

4. LMC uses the state’s Setoff Debt Collection Program (“SDCP”) to intercept consumer’s tax refunds to pay consumers’ medical debts. In 2017 alone, LMC intercepted \$19.2 million in consumer tax refunds using the SDCP program.

5. LMC collected debts from Plaintiff Jones using the SDCP program, after collecting of Plaintiff Jones’ debts had been stayed by order of this Court.

6. LMC collected debts from Plaintiff Mayers using the SDCP program, after Plaintiff Mayers’ debts had been discharged by a subsequent bankruptcy.

7. LMC collected debts from Plaintiff Williams using or threatening to use the SDCP program, after Plaintiff Williams’ debts had been discharged.

8. LMC engaged in these collection efforts despite receiving notices of bankruptcy discharge and/or stay, meaning it knew that the debt it was collecting was uncollectable, but it seized Plaintiffs’ tax refunds regardless.

9. Despite the commonplace confluence of bankruptcy and medical debt, LMC routinely and systematically ignores bankruptcy discharges and bankruptcy stays.

10. Plaintiffs, therefore, bring this case as a class action, on behalf of themselves and others from whom LMC has unlawfully collected debt in contravention of this Court’s bankruptcy orders.

### **JURISDICTION AND VENUE**

11. This Adversary Proceeding is brought under Case Numbers 14-00864-dd, 18-06304-dd, and 17-02620-dd.

12. This Adversary Proceeding contains core proceedings including 28 USC §1334(b) and 11 USC §105. The Court has jurisdiction over this Adversary proceeding pursuant to 28 USC 157(b).

13. This Adversary Proceeding also contains non-core proceedings including unjust enrichment. This Court has jurisdiction over this Adversary proceeding pursuant to 28 USC §157(c).

14. This Court has jurisdiction over this Adversary Proceeding pursuant to 28 U.S.C. § 1332, and supplemental jurisdiction over this Adversary Proceeding pursuant to 28 U.S.C. § 1367 because the additional claims are related to the core proceeding and involve questions of federal law.

15. This Adversary Proceeding is brought pursuant to 11 U.S.C § 105, 523(a)(8), 15 U.S.C § 1601 and Federal Rules of Bankruptcy Procedure Rule 7001.

16. Venue is proper in the District of South Carolina pursuant to 28 U.S.C. § 1409 because this matter arises in and is related to a bankruptcy case in this district.

### **PARTIES**

17. Plaintiff Jones is an individual and resident of the State of South Carolina.

18. Plaintiff Mayers is an individual and resident of the State of South Carolina.

19. Plaintiff Williams is an individual and resident of the State of South Carolina.

20. Defendant Lexington Health Services District, Inc. d/b/a Lexington Medical Center is a non-profit corporation with its principal place of business and headquarters in Lexington, South Carolina.

### **FACTUAL ALLEGATIONS OF NAMED PLAINTIFF JONES**

21. On December 12, 2018, Plaintiff Jones filed a Voluntary Petition in the United States Bankruptcy Court for the District of South Carolina under Chapter 7 of the United States Bankruptcy Code, Case Number 18-06304-dd.

22. Included in Plaintiff's bankruptcy filing was a debt owed to LMC (see Exhibit A, p. 3).

23. Shortly after the Petition was filed, the Bankruptcy Noticing Center for the Bankruptcy Court sent a notice of the pending bankruptcy proceeding ("the 341 Notice") to LMC by first class mail.

24. The 341 Notice warns all creditors, in conspicuous language, of the imposition of "an automatic stay against most collection activities... [to] try to collect from the debtors." The United States Postal Service did not return the 341 Notice sent to LMC, creating a presumption it was received.

25. Despite this, on January 25, 2019, Plaintiff received noticed that LMC had, through the SDCP, seized \$336 of his tax refund, in violation of the Bankruptcy stay.

26. Plaintiff's funds have only partially been returned to him.

**FACTUAL ALLEGATIONS OF NAMED PLAINTIFF MAYERS**

27. On or about February 19, 2014 Plaintiff Mayers filed a Voluntary Petition in this Court under Chapter 7 of the Unites States Bankruptcy Code, Case Number 14-00864-dd.

28. Included in Plaintiff's bankruptcy filing on Schedule F were three debts owed to LMC for \$345, \$987.53 and \$269 for radiology and urgent care services in September of 2013 (see Exhibit B, p. 6).

29. The Bankruptcy Noticing Center for the Bankruptcy Court sent a notice of the pending bankruptcy proceeding ("the 341 Notice") to LMC by first class mail.

30. The 341 Notice warns all creditors, in conspicuous language, of the imposition of "an automatic stay against most collection activities... [to] try to collect from the debtors." The United States Postal Service did not return the 341 Notice sent to LMC, creating a presumption it was received.

31. On June 2, 2014 this Court issued an Order of Discharge, granting Plaintiff a discharge in her Bankruptcy Case ("Discharge Order," attached as Exhibit C).

32. The order discharged Plaintiff from any personal liability on discharged debt, including the debts claimed by LMC.

33. The Discharge Order and its accompanying notice warned all creditors, including LMC that collection of discharged debts was prohibited. The notice included with the Discharge Order explained the discharge injunction and states that "[c]reditors cannot collect discharged debt" and that "[t]his order means that no one may make any attempt to collect a discharged deb from the debtors personally." It also states that "[c]reditors who violate this order can be required to pay debtors damages and attorney's fees."

34. The Discharge Order was mailed out to all creditors and other parties, including LMC.

35. This Discharge Order mailing constituted formal notice to LMC of Plaintiff's discharge.

36. This mailing of the Discharge Order was not returned.

37. LMC received the Discharge Order and notice.

38. Plaintiff never reaffirmed the debt to LMC.

39. In the spring of 2019, nearly five years after Plaintiff's bankruptcy discharge, LMC engaged in debt collection activity against Plaintiff using the SDCP to intercept \$345 from Plaintiff's tax refund.

40. LMC engaged in this collection despite the fact that Plaintiff's debt had been discharged in bankruptcy, and despite the fact that LMC had received notice of that discharge.

41. After innumerable disputes with LMC, Plaintiff secured the return of the funds wrongly seized from her five months later. However, because she lost the

use of her funds for that time period, Plaintiff lost the ability to make payments on her car, which was ultimately repossessed as a result of LMC's actions. LMC did not pay Plaintiff any interest on the \$345 it wrongly withheld from her during the five-month period. Nor did LMC compensate Plaintiff for the time she spent trying to convince LMC to return her money.

**FACTUAL ALLEGATIONS OF NAMED PLAINTIFF WILLIAMS**

42. On or about May 25, 2017 Plaintiff Williams filed a Voluntary Petition in this Court under Chapter 7 of the United States Bankruptcy Code, Case Number 17-02620-dd.

43. Included in Plaintiff's bankruptcy filing on Schedule F was a debt owed to LMC for \$90,000 (see Exhibit D, p. 4).

44. The Bankruptcy Noticing Center for the Bankruptcy Court sent a notice of the pending bankruptcy proceeding ("the 341 Notice") to LMC by first class mail.

45. The 341 Notice warns all creditors, in conspicuous language, of the imposition of "an automatic stay against most collection activities... [to] try to collect from the debtors." The United States Postal Service did not return the 341 Notice sent to LMC, creating a presumption it was received.

46. On August 24, 2017 this Court issued an Order of Discharge, granting Plaintiff a discharge in her Bankruptcy Case ("Discharge Order," attached as Exhibit E).

47. The order discharged Plaintiff from any personal liability on discharged debt, including the \$90,000 claimed by LMC.

48. The Discharge Order and its accompanying notice warned all creditors, including LMC that collection of discharged debts was prohibited. The notice included with the Discharge Order explained the discharge injunction and states that "[c]reditors cannot collect discharged debt" and that "[t]his order means

that no one may make any attempt to collect a discharged deb from the debtors personally.” It also states that “[c]reditors who violate this order can be required to pay debtors damages and attorney’s fees.”

49. The Discharge Order was mailed out to all creditors and other parties, including LMC.

50. This Discharge Order mailing constituted formal notice to LMC of Plaintiff’s discharge.

51. This mailing of the Discharge Order was not returned.

52. LMC received the Discharge Order and notice.

53. Plaintiff never reaffirmed the debt to LMC.

54. Despite this, beginning on or after April 17, 2018, well after the discharge, LMC attempted to collect the discharged debt from Plaintiff by sending collection notices that threatened to invoke the SCDP program. In fact, LMC successfully persuaded Plaintiff to make three payments totaling more than \$100.00 that she did not owe, because the debt had been discharged.

55. Even payment of this sum did not stop collection efforts. As recently as September 16, 2019, LMC continued to attempt to collect an additional \$100 on discharged sums from Plaintiff on the same account, stating that it intended to “resubmit this debt to the South Carolina Department of Revenue” absent payment. Exhibit F.

56. Plaintiff’s funds have not been returned.

### **CLASS ALLEGATIONS**

57. Plaintiff Mayers brings her claims as a class action under Rule 23 of the Federal Rules of Civil Procedure and under Rule 7023 of the Federal Rules of Bankruptcy Procedure, on behalf of herself and the and the Discharge Class, defined as:

Every person within South Carolina whose discharged debt to LMC was collected by LMC through the Setoff Debt Collection Program.

58. Plaintiff Jones brings his claims as a class action under Rule 23 of the Federal Rules of Civil Procedure and under Rule 7023 of the Federal Rules of Bankruptcy Procedure, on behalf of herself and the and the Stay Class, defined as:

Every person within South Carolina whose debt to LMC was collected by LMC through the Setoff Debt Collection Program despite the presence of an automatic bankruptcy stay.

59. Plaintiff Williams brings her claims as a class action under Rule 23 of the Federal Rules of Civil Procedure and under Rule 7023 of the Federal Rules of Bankruptcy Procedure, on behalf of herself and the and the Collections Class, defined as:

Every person within South Carolina whose discharged debt to LMC was collected by LMC through threats to invoke the Setoff Debt Collection Program.

60. The Classes as defined above are so numerous that joinder of all members is impracticable. Plaintiffs are informed and are aware of numerous other occasions on which LMC collected debts in violation of bankruptcy stays and/or discharge orders.

61. Class members can be identified by using records maintained by LMC and by the Bankruptcy Courts.

62. There are questions of law or fact common to the class. Common questions of law and fact include whether LMC violated the Bankruptcy Stay with respect to the Classes, the damages suffered by members of the Classes, whether punitive damages should be awarded, and whether Plaintiffs and the class members are entitled to injunctive relief.

63. The claims of Plaintiffs are typical claims of the members of the Classes, who suffered the same damages arising out of the same wrongful conduct, differing only in the intercepted amounts.

64. The representative Plaintiffs will fairly and adequately protect the interests of the Classes, as they have retained counsel competent and experienced in class action lawsuits and consumer protection law. Plaintiffs have no interests antagonistic or in conflict with those of class members and are adequate representatives for all class members.

**FIRST CAUSE OF ACTION – CONTEMPT**

***Asserted by Plaintiffs Mayers and Williams on Behalf of the Discharge Class***

65. Plaintiffs repeat, re-allege, and incorporate by reference the above Paragraphs as if set forth herein in their entirety.

66. At all times material to this proceeding, LMC had actual or constructive knowledge about Plaintiffs' bankruptcy cases and the discharge of the debts at issue.

67. The actions of LMC constitute a violation of the discharge injunction in 11 U.S.C. §§ 524(a)(1)-(3).

68. No exceptions exist under 11 U.S.C. §§ 524 or any other provision of the United States Bankruptcy Code or other applicable law that permit the conduct of LMC regarding the automatic stay or discharge injunction, as stated above.

69. Plaintiffs have been injured and damaged by LMC's actions and may recover judgment against LMC, for actual damages and punitive damages, plus an award of costs and reasonable attorney's fees, for violations of 11 U.S.C. § 524, and under the Court's powers under 11 U.S.C. § 105.

**SECOND CAUSE OF ACTION – VIOLATION OF BANKRUPTCY STAY**

***Asserted by Plaintiff Jones on Behalf of the Stay Class***

70. Plaintiff repeats, re-alleges, and incorporates by reference the above Paragraphs as if set forth herein in their entirety.

71. At all times material to this proceeding, LMC had actual or constructive knowledge about Plaintiff's bankruptcy case and the stay of the debts at issue.

72. By unilaterally seizing Plaintiff's funds, LMC violated this Court's automatic stay, 11 U.S.C. § 362.

73. Plaintiff and the Class have been injured and damaged by LMC's actions and may recover judgment against LMC, for actual damages and punitive damages, plus an award of costs and reasonable attorney's fees, pursuant to 11 U.S.C. § 362(k)(1)

### **THIRD CAUSE OF ACTION – UNJUST ENRICHMENT**

#### ***Asserted by all Plaintiffs on Behalf of all Classes***

74. Plaintiffs repeat and incorporate by reference the allegations of the paragraphs above as if fully set forth herein.

75. By retaining and using the funds belonging to the Plaintiffs and members of the Class, Plaintiffs and the members of the Classes conferred a monetary benefit on LMC.

76. LMC retained and used these funds and profited – and continues to profit – without the consent of Plaintiffs, and without compensating Plaintiffs and the members of the Class.

77. As a result of LMC's wrongful conduct, LMC received benefits at the expense of, and to the detriment of, the Plaintiffs and the members of the Class.

78. LMC's conduct was knowing and intentional, and LMC appreciated the monetary benefits conferred by the Plaintiffs and the members of the Class.

79. It would be unconscionable and inequitable for LMC to retain those monetary benefits.

80. As a direct and proximate result of LMC's wrongful conduct and unjust enrichment, LMC is liable to the Plaintiffs and the members of the Class for

restitution in the amount of the monetary benefits conferred upon LMC, including, without limitation, the funds LMC has wrongfully retained.

WHEREFORE, having fully set forth the Complaint, Plaintiffs pray that the Court, certify the class described hereinabove, and provide relief:

- a. Ordering the disgorgement and return of all funds obtained by LMC in violation of Title 11 of the United States Code, with interest.
- b. Awarding the damages to class members they may recover under the law as set forth in this Complaint, including actual damages, consequential damages, special damages, penalties and punitive damages in an amount to be determined by a jury, and interest thereon.
- c. Awarding attorney's fees and costs;
- d. Issuing declaratory and injunctive relief requiring LMC to take immediate measures to ensure compliance with Title 11 including the stays provided therein, to avoid any and all collection actions being taken against protected consumers, via setoff or otherwise;

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Dated: January 10, 2020

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