

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

CASE NO. _____

ALBERTO PEREZ, CERAH FISHLEY,
and KATHY CARR, on behalf
of themselves and on behalf of all others
similarly situated,

Plaintiffs,

v.

MEDNAX SERVICES, INC., a Florida
Profit Corporation,

Defendant.

_____ /

DEFENDANT'S NOTICE OF REMOVAL

Defendant, Mednax Services, Inc. ("Mednax"), hereby gives notice that the action styled *Alberto Perez, et al. v. Mednax Services, Inc.*, pending in the Circuit Court of the Seventeenth Judicial District in and for Broward County, Florida, Case No. CACE-22-001446, has been removed to the United States District Court for the Southern District of Florida, pursuant to 28 U.S.C. §§ 1331, 1441(a), and 1446.¹

¹ By removing this proceeding, Defendant does not waive, and shall not be deemed to have waived, any available rights and defenses.

MEMORANDUM OF LAW

This Court has original jurisdiction over this action under 28 U.S.C. § 1331, and this action may be removed to this Court pursuant to 28 U.S.C. §§ 1441 and 1446, for the following reasons:

I. Federal Question Jurisdiction Exists in this Case

1. On or about January 28, 2022, Plaintiffs, Alberto Perez, Creah Fishley and Kathy Carr (“Plaintiffs”), filed a complaint against Defendant Mednax Services, Inc., in the Circuit Court of the Seventeenth District in and for Broward County, Florida. Plaintiffs asserted one count against Mednax in the Complaint: Failure to Provide Pre-Adverse Action Notice in Violation of the Fair Credit Reporting Act pursuant to 15 U.S.C. § 1681b(b)(3)(A)(i). In accordance with 28 U.S.C. § 1446(a), true and correct copies of the Complaint and Summons are attached as Exhibit “A.” A true and correct copy of the docket, all process, pleadings, orders, and other documents served on defendant, exclusive of the Complaint and Summons, served upon Mednax in the State Court Action is attached hereto as Exhibit B.”

2. Plaintiff served the Complaint on Mednax on or about February 3, 2022.

3. The Complaint asserts a claim for violation of the federal Fair Credit Reporting Act (“FCRA”). The FCRA grants concurrent federal and state jurisdiction over FCRA claims. Specifically, 15 U.S.C. § 1681p sets forth that “[a]n action to enforce any liability created under this subchapter may be brought in any appropriate United States district court ... or any other court of competent jurisdiction.” The 11th Circuit has held that the language of the statute providing concurrent jurisdiction for actions brought under the FCRA does not prohibit removal. *Lockard v. Equifax, Inc.*, 163 F.3d 1259, 1264–65 (11th Cir. 1998); *Arianas v. LVNV Funding, LLC*, 2014 WL 5388167, at *1 (M.D. Fla. July 10, 2014) (finding that an action alleging

federal Fair Credit Reporting Act claims, among others, filed in state court was properly removed to federal court).

4. This Notice of Removal is being filed with this Court within 30 days after Defendant's receipt of the Complaint on February 3, 2022, in compliance with 28 U.S.C. § 1446(b). *See Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 354, 119 S.Ct. 1322, 1328 (1999).

5. Pursuant to 28 U.S.C. § 1446(d), written notice of this Notice of Removal will be promptly served upon Plaintiffs' counsel and to the Clerk of the Circuit Court of the 17th Judicial Circuit in and for Broward County, Florida.

WHEREFORE, Defendant prays that this action be removed and request this Court to assume full jurisdiction over this matter as provided by law.

Respectfully submitted,

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By: /s/ Martin B. Goldberg

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 17th, 2022, I electronically filed the foregoing document with the Clerk of Court using CM/ECF and further certify that the foregoing is also being served via electronic mail as addressed below:

Marc R. Edelman, Esq.
MORGAN & MORGAN, P.A.
medelman@forthepeople.com
201 N. Franklin Street, Suite 700
Tampa, FL 33602-5157
Attorney for Plaintiffs

By: /s/ Martin B. Goldberg
Martin B. Goldberg

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.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS Alberto Perez, Creah Fishley, and Kathy Carr, on behalf of themselves and on behalf of all others similarly situated DEFENDANTS Mednax Services, Inc.

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

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

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Morgan & Morgan, P.A. 201 N. Franklin St., Ste. 700 Tampa, FL 33602 | (813) 223-5505

Attorneys (If Known) Lash & Goldberg, LLP 100 SE 2nd St., Ste. 1200 Miami, FL 33131 | (305) 347-4040

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

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

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

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

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation

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

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

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

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

VI. RELATED/ RE-FILED CASE(S) (See instructions): a) Re-filed Case YES NO b) Related Cases YES NO

JUDGE: DOCKET NUMBER:

VII. CAUSE OF ACTION Alleged violation of Fair Credit Reporting Act, 15 USC 1681b (putative class action). LENGTH OF TRIAL via 3 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE DATE 02/17/2022 SIGNATURE OF ATTORNEY OF RECORD /s/ Martin B. Goldberg

EXHIBIT A

**IN THE CIRCUIT COURT FOR THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA
CIVIL DIVISION**

ALBERTO PEREZ, CREAM FISHLEY,
and KATHY CARR, on behalf
of themselves and on behalf of all others
similarly situated,

Plaintiffs,

v.

Case No.:

MEDNAX SERVICES, INC., a Florida
Profit Corporation,

Defendant.

_____ /

CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs, Alberto Perez, Cream Fishley and Kathy Carr, on behalf of themselves and the putative class set forth below, and in the public interest, bring the following Class Action Complaint as of right against Defendant, Mednax Services, Inc., (“Defendant” or “Mednax”) including, subsidiaries, divisions and affiliates under the Fair Credit Reporting Act of 1970, as amended (“FCRA”), 15 U.S.C. § 1681 *et seq.*

PRELIMINARY STATEMENT

1. Mednax is a multi-specialty medical solutions group with hundreds of locations throughout the United States.
2. Mednax routinely obtains and uses information in consumer reports to conduct background checks on applicants and employees.
3. The FCRA, 15 U.S.C. § 1681b, makes it presumptively unlawful to obtain and use a consumer report for an employment purpose. Such use becomes lawful if and only if the “user” – in this case Mednax – has complied with the FCRA’s strict notice requirements. *See* 15 U.S.C. §

1681b(b)(3)(A)(i).

4. Mednax willfully violated these requirements in multiple ways, in systematic violation of Plaintiffs' rights and the rights of other putative class members.

5. Specifically, Mednax violated 15 U.S.C. § 1681b(b)(3)(A)(i) by denying employment opportunities to Plaintiffs based in part or in whole on the results of their consumer reports without first providing them notice and a copy of the reports, as well as a reasonable opportunity to dispute or discuss the contents of the reports.

6. Providing a copy of the background report as well as a statement of consumer rights before making a final adverse employment decision arms the nation's millions of job applicants with the knowledge and information needed to challenge inaccurate, incomplete, and misleading consumer reports. The FCRA is designed to permit individuals whose reports are inaccurate with ample time to identify the inaccuracies and correct them before the employer has made an employment decision. Even if reports are accurate, the FCRA demands that applicants receive them and their written FCRA rights so that they may preemptively discuss negative information with the potential employers.

7. In Count I, Plaintiffs assert a FCRA claim under 15 U.S.C. § 1681b(b)(3)(A)(i) on behalf of an "Adverse Action Class" consisting of:

All consumers in the United States who (1) were subject to a consumer report provided to Mednax, (2) for whom, based in whole or in part on the information contained in those consumer report, (3) there was an adverse employment action taken, and (4) to whom Mednax did not provide the consumer with a copy of the consumer report and written summary of FCRA rights at least five business days before taking such adverse action, (5) for the five years preceding the date of this action.

8. On behalf of themselves and the putative class, Plaintiffs seek statutory damages, costs and attorneys' fees, and other appropriate relief under the FCRA.

PARTIES

9. Plaintiff, Alberto Perez (“Perez”) is a consumer who applied for employment with Defendant and subsequently was denied in whole or in part because of his consumer report.

10. Plaintiff, Creah Fishley (“Fishley”) is a consumer who applied for employment with Defendant and was subsequently denied in whole or in part because of her consumer report.

11. Plaintiff, Kathy Carr (“Carr”) is a consumer who applied for employment with Defendant and was subsequently denied in whole or in part because of her consumer report.

12. Plaintiffs are members of the putative Adverse Action Class.

13. Defendant, Mednax Services, Inc. is a corporation and user of consumer reports as contemplated by the FCRA, at 15 U.S.C. § 1681b.

JURISDICTION AND VENUE

14. This is an action for damages that exceeds the sum of THIRTY THOUSAND DOLLARS (\$30,000.00), exclusive of costs and attorneys’ fees (The estimated value of Plaintiffs’ claim is in excess of the minimum jurisdictional threshold required by this Court). Accordingly, Plaintiffs have entered “\$30,001” in the civil cover sheet for the “estimated amount of the claim” as required in the preamble to the civil cover sheet for jurisdictional purposes only (the Florida Supreme Court has ordered that the estimated “amount of claim” be set forth in the civil cover sheet for data collection and clerical purposes only). The actual value of Plaintiffs’ claims will be determined by a fair and just jury in accordance with Article 1, Section 21, Fla. Const.

15. The Court has jurisdiction under the FCRA, 15 U.S.C. § 1681p.

16. Venue is proper in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida because Mednax does business in Broward County and its corporate

headquarters is located in Broward County, Florida.

FACTUAL ALLEGATIONS

Mednax's Use of Background Checks

17. Mednax's uniform, national practice is to conduct background checks on job applicants and employees, regardless of position.

18. Mednax does not perform these background checks in-house. Rather, Mednax relies on an outside consumer reporting agency ("CRA") to obtain this information and report it to Mednax. These reports constitute "consumer reports" for purposes of the FCRA.

19. Mednax uses these consumer reports to make employment decisions, *i.e.* determine whether consumers are eligible for employment.

20. Mednax views them and enters a code or designation in its computer system with which a person is ineligible for hire (if an applicant) or cannot continue employment (if already hired pending a background check).

21. At that point, Mednax considers the individual to be ineligible for employment.

Plaintiff Perez

22. In October 2021, Perez was required to electronically authorize the procurement of his consumer report for employment with Mednax for an EEG Technician position at the Winter Park, FL location.

23. Mednax denied Perez employment, in whole or in part, based on his consumer report.

24. Mednax never provided Perez with a copy of his background check before denying him employment.

25. Mednax entered a code in its computer system rendering Perez ineligible for

employment based on his background check. The entering of this code and consequent denial of employment were adverse employment actions.

26. Mednax's failure to provide Plaintiff Perez with pre-adverse action notice, including a copy of his consumer report and written summary of her FCRA rights at least five business days before coding him as ineligible in its computer system was a blatant violation of the requirements set forth by 15 U.S.C. § 1681b(b)(3).

27. Because Plaintiff Perez did not receive a copy of his background check before Mednax took an adverse employment action against him, Plaintiff Perez never knew what was being reported about him or if it was even correct. In other words, Plaintiff Perez never had the opportunity to see the consumer report Mednax was using to take action against him.

28. Plaintiff Perez never had the opportunity to plead his case for employment with Mednax.

29. If Plaintiff Perez had been provided a copy of his background check, he would have been able to put what was being reported about him in context and continue his employment, as Plaintiff Perez had performed successfully in the same role for seven years prior to Mednax rejecting him for employment.

Plaintiff Fishley

30. On October 4, 2021, Plaintiff Fishley was required to electronically authorize the procurement of her consumer report for employment with Mednax for a medical assistant position at the Orlando, FL location.

31. Mednax denied Plaintiff Fishley employment, in whole or in part, based on her consumer report.

32. Mednax never provided Plaintiff Fishley with a copy of her background check

before denying her employment.

33. Mednax entered a code in its computer system rendering Plaintiff Fishley ineligible for employment based on her background check. The entering of this code and consequent denial of employment were adverse employment actions.

34. Mednax's failure to provide Plaintiff Fishley with pre-adverse action notice, including a copy of her consumer report and written summary of her FCRA rights at least five business days before coding her as ineligible in its computer system was a blatant violation of the requirements set forth by 15 U.S.C. § 1681b(b)(3).

35. Because Plaintiff Fishley did not receive a copy of her background check before Mednax took an adverse employment action against her, Plaintiff Fishley never knew what was being reported about her or if it was even correct. In other words, Plaintiff Fishley never had the opportunity to see the consumer report Mednax was using to take action against her.

36. Plaintiff Fishley never had the opportunity to plead her case for employment with Mednax.

37. If Plaintiff Fishley had been provided a copy of her background check, she would have been able to put what was being reported about her in context and continue her employment, as she had successfully performed the same job for almost eleven years prior to Mednax rejecting her for employment.

Plaintiff Carr

38. On October 3, 2021, Plaintiff Carr was required to electronically authorize the procurement of her consumer report for employment with Mednax for a research coordinator position at the Winter Park, FL location.

39. Mednax denied Plaintiff Carr employment, in whole or in part, based on her

consumer report.

40. Mednax never provided Plaintiff Carr with a copy of her background check before denying her employment.

41. Mednax entered a code in its computer system rendering Plaintiff Carr ineligible for employment based on her background check. The entering of this code and consequent denial of employment were adverse employment actions.

42. Mednax's failure to provide Plaintiff Carr with pre-adverse action notice, including a copy of her consumer report and written summary of her FCRA rights at least five business days before coding her as ineligible in its computer system was a blatant violation of the requirements set forth by 15 U.S.C. § 1681b(b)(3).

43. Because Plaintiff Carr did not receive a copy of her background check before Mednax took an adverse employment action against her, Plaintiff Carr never knew what was being reported about her or if it was even correct. In other words, Plaintiff Carr never had the opportunity to see the consumer report Mednax was using to take action against her.

44. Plaintiff Carr never had the opportunity to plead her case for employment with Mednax.

45. If Plaintiff Carr had been provided a copy of her background check, she would have been able to put what was being reported about her in context and been hired by Mednax, as Plaintiff Carr had successfully performed the same role for four years prior to being rejected for employment.

Plaintiffs' Concrete Harm

46. Mednax's failure to provide pre-adverse action notice injured Plaintiffs in that they were deprived of information due to them at a particular time, and the ability to contest or

discuss with Mednax the content of their consumer reports.

47. These rights attach even if the reports were accurate, as courts regularly recognize that § 1681b(b)(3) entitles consumers to know the same information the employer is using to make its hiring decision and, even if the report contains no inaccuracies, to soften the brunt of negative information by discussing it preemptively with the employer before the hiring decision is made.

48. Mednax denied Plaintiffs' employment based in whole or in part on the content of their consumer reports but did not first provide them with pre-adverse action notice, including a copy of their consumer reports. Therefore, Mednax failed to satisfy the federally imposed requirements of § 1681b(b)(3)(A)(i). This resulted in an informational injury to Plaintiffs and class members.

49. Because Mednax failed to provide Plaintiffs a copy of their consumer reports, Plaintiffs were further deprived of the opportunity to see how their personal, sensitive information was being reported by a consumer reporting agency.

50. Because Mednax failed to provide Plaintiffs with a copy of their consumer report, Plaintiffs were deprived of the opportunity to proactively address how their background was being interpreted by Mednax and to discuss the information and place it in context.

51. Plaintiffs worried whether the information contained in their consumer reports was accurate and how it would affect their prospects of employment elsewhere.

52. The FCRA's protections regarding who may obtain consumer reports and how they may be used are real and substantive, not merely procedural. The violation alleged here is not just a technical requirement – Mednax had no right to take an adverse employment action against Plaintiffs without first providing them notice of its intent, and copies of Plaintiffs'

reports.

53. Plaintiffs and the putative class members, all of whom were denied pre-adverse action notice, therefore suffered a concrete, in-fact injury that is directly traceable to Defendant's conduct and that is likely to be redressed by a favorable decision here.

54. Plaintiffs and Class Members suffered additional concrete harm because of the adjudication of their reports. In taking such adverse actions against consumers before providing them with the notice and summary of rights demanded by § 1681b(b)(3), Defendant deprived Plaintiffs and class members with information to which they were statutorily entitled at a particular time. This deprivation worked concrete harm on Plaintiffs and members of the class.

55. Courts regularly recognize that violations of § 1681b(b)(3) work concrete harm on consumers. *See, e.g., Helwig v. Concentrix Corp.*, No. 1:20-cv-920, 2021 WL 1165719, at *3 (N.D. Ohio Mar. 26, 2021) (concluding that deprivation of notice before adverse action resulted in Article III harm, and citing cases from the Third, Sixth, Seventh, and D.C. Circuits so holding).

56. This statutory requirement was enacted by Congress expressly to protect consumer privacy by restricting the circumstances under which a person (in this instance Mednax) could obtain and use a consumer's personal information found on a consumer report.

57. In enacting this FCRA provision, Congress also expressly sought to guarantee important material information be provided to Plaintiffs and consumers like them with respect to employer use of a consumer report for an employment adverse action.

58. Plaintiffs and each putative class member have been substantively harmed and injured by Mednax in the deprivation of the congressionally mandated information.

59. Courts have concluded that concrete harm results from the deprivation of notice

even if the background report is accurate. *Hood v. Action Logistix, LLC*, No. 4:20-cv-978 RWS, 2021 WL 1143885, at *4 (E.D. Mo. Mar. 25, 2021) (concluding that “[a]n unsuccessful job applicant suffers a concrete harm when he is deprived of these [Section 1681b(b)(3)] rights—even if the information in the report is true and accurate,” and collecting cases holding likewise).

60. That is because context is important, and being denied the ability to see the report on which an employer is basing a negative hiring decision prevents consumers from being able to explain any negative information. *See id.* at *5 (“[T]he language of § 1681b(b)(3)(A) as well as the legislative history of the FCRA reflects clear congressional intent to make an individual’s inability to review and respond to the contents of his consumer report before suffering an adverse employment action a redressable harm.”).

Mednax Acted Willfully

61. Mednax knew or should have known about its legal obligations under the FCRA. These obligations are well established in the statute’s plain language, judicial decisions interpreting the Act, and in the Federal Trade Commission’s and Consumer Financial Protection Bureau’s promulgations.

62. Before a person takes an adverse employment action, it must provide two documents to the prospective employee. *See* Letter from Clark W. Brinckerhoff to Erick J. Weisberg (June 27, 1997), FTC Informal Staff Letter (“Brinckerhoff Letter II”) (noting that taking action a period of five business days after notice “appears reasonable.”); *Williams v. Telespectrum, Inc.*, Civil Action No. 3:05cv853 (E.D. Va. 2006), Report and Recommendation of Magistrate Judge Hannah Lauck dated November 7, 2006, adopted by Judge R. Payne January 8, 2005, (holding that a user of a consumer report must provide to the consumer a copy of the report and disclosure of rights a sufficient amount of time before it takes adverse action so that

the consumer can rectify any inaccuracies in the report, and simultaneous provision of the report does not satisfy this requirement); *Kelchner v. Sycamore Manor Health Ctr.*, 305 F. Supp. 2d 429, 435 (M.D. Pa. 2004); (holding a reasonable period for the employee to respond to disputed information is not required to exceed five business days following the consumers receipt of the consumer's report from the employer).

63. To ensure knowing compliance with the FCRA, Congress requires that before any consumer reporting agency may provide consumer reports on an applicant, the reporting agency must have obtained a certification from the employer that it will comply with 15 U.S.C. § 1681b(b)(3) whenever the employer decides to take adverse action based in whole or in part on the consumer report. 15 U.S.C. § 1681b(b)(1)(A).

64. Upon information and belief, Mednax knowingly executed a certification providing that it would comply with the various provisions of the FCRA whenever adverse action was contemplated or taken based in whole or in part on information contained in a consumer report.

65. Despite its certifications, Mednax knowingly violated 15 U.S.C. § 1681b(b)(3).

66. Mednax obtained, or had available, substantial written materials, which apprised it of its duties under the FCRA.

67. These requirements have been part of the fabric of the FCRA since Congress enacted it. Mednax has had decades by which to become compliant with these requirements, yet it has not done so.

68. Despite knowledge of these legal obligations, Mednax acted consciously in breaching its known duties and depriving the Plaintiffs and putative class members of their rights under the FCRA.

69. As a result of these FCRA violations, Mednax is liable to Plaintiffs and to each putative class member for statutory damages from \$100.00 to \$1,000.00 pursuant to 15 U.S.C. § 1681n(a)(1)(A), plus punitive damages pursuant to 15 U.S.C. § 1681n(a)(2), for the violations alleged herein, and for attorney's fees and costs pursuant to § 1681n and § 1681o.

CLASS ACTION ALLEGATIONS

70. Pursuant to Rule 1.220(b)(1), (2), and (3) of the Florida Rules of Civil Procedure and 15 U.S.C. § 1681b, Plaintiffs bring this action for themselves and on behalf of the putative class below.

71. In Count I, Plaintiffs assert a FCRA claim under 15 U.S.C. § 1681b(b)(3)(A)(i) on behalf of an "Adverse Action Class" consisting of:

All consumers in the United States who (1) were subject to a consumer report provided to Mednax, (2) for whom, based in whole or in part on the information contained in those consumer report, (3) there was an adverse employment action taken, and (4) to whom Mednax did not provide the consumer with a copy of the consumer report and written summary of FCRA rights at least five business days before taking such adverse action, (5) for the five years preceding the date of this action.

72. Numerosity: The members of the putative class are so numerous and geographically dispersed that joinder of all Class members is impracticable. Mednax regularly obtains and uses information in consumer reports to conduct background checks on prospective employees and existing employees, and frequently relies on such information, in whole or in part, in the hiring process. Plaintiffs are informed and believe that during the relevant time period, hundreds of Mednax's employees and prospective employees satisfy the definition of the putative class. Based on the number of putative class members, joinder is impracticable. The names and addresses of the Class members are identifiable through Mednax's records and published Class members may be notified of this action by mailed notice.

73. Typicality: Plaintiffs' claims are typical of those of the members of the putative class. Mednax typically uses consumer reports to conduct background checks on employees and prospective employees. The FCRA violations suffered by Plaintiffs are typical of those suffered by other putative class members, and Mednax treated Plaintiffs consistent with other putative class members in accordance with their standard policies and practices.

74. Adequacy: Plaintiffs will fairly and adequately protect the interests of the putative class, and has retained counsel experienced in complex class action litigation.

75. Commonality: Common questions of law and fact exist as to all members of the putative class, and predominate over any questions solely affecting individual members of the putative class. These common questions include, but are not limited to:

- a. whether Mednax uses consumer report information to conduct background checks on consumers;
- b. whether Mednax provided consumers with notice and copies of their consumer reports before taking an adverse employment action against them;
- c. whether Mednax's violation of the FCRA was willful; and
- d. the proper measure of statutory damages.

76. This case is maintainable as a class action because prosecution of actions by or against individual members of the putative class would result in inconsistent or varying adjudications and create the risk of incompatible standards of conduct for Mednax. Further, adjudication of each individual Class member's claim as a separate action would potentially be dispositive of the interest of other individuals not a party to such action, thereby impeding their ability to protect their interests.

77. This case is also maintainable as a class action because Mednax acted or refused to act on grounds that apply generally to the putative class, so that final injunctive

relief or corresponding declaratory relief is appropriate with respect to the Class as a whole.

78. Class certification is also appropriate because questions of law and fact common to the putative class predominate over any questions affecting only individual members of the putative class, and also because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. Mednax's conduct, which is described in this Complaint, stems from common and uniform policies and practices, resulting in common violations of the FCRA. Members of the putative class do not have an interest in pursuing separate actions against Mednax, as the amount of each Class member's individual claim for damages is small in comparison to the expense and burden of individual prosecution. Class certification will also obviate the need for unduly duplicative litigation that might result in inconsistent judgments concerning Mednax's practices. Moreover, management of this action as a class action will not present any foreseeable difficulties. In the interests of justice and judicial efficiency, it would be desirable to concentrate the litigation of all putative class members' claims in a single action, brought in a single forum.

79. Plaintiffs intend to send notice to all members of the putative class to the extent required by the Florida Rules of Civil Procedure. The names and addresses of the putative class members are readily available from Mednax's records.

COUNT I
Failure to Provide Pre-Adverse Action Notice in
Violation of the FCRA 15 U.S.C. § 1681b(b)(3)(A)(i)

80. Plaintiffs allege and incorporate by reference the allegations in the preceding paragraphs 17-69.

81. Mednax used a "consumer report," as defined by the FCRA, to take an adverse employment action against Plaintiffs and other members of the Adverse Action Class.

82. Mednax violated the FCRA by failing to provide Plaintiffs and other class members with pre-adverse action notice, and a copy of the consumer report used to take adverse employment action against them, before taking such adverse action. *See* 15 U.S.C. § 1681b(b)(3)(A)(i).

83. The foregoing violations were willful. Mednax acted in deliberate or reckless disregard of its obligations and the rights of Plaintiffs and other Class members under 15 U.S.C. § 1681b(b)(3)(A)(i). Mednax knew or should have known of its legal obligations under the FCRA. These obligations are well established in the plain language of the statute and in the promulgations of the Federal Trade Commission. Mednax obtained or otherwise had available substantial written materials that apprised Mednax of its duties under the FCRA. Any reasonable employer knows of the existence of these FCRA mandates, or can easily discover their substance.

84. Moreover, at the time Mednax failed to follow 15 U.S.C. § 1681b(b)(3)(A)(i) a plethora of FTC opinions and case law existed.

85. Plaintiffs and the putative class are entitled to statutory damages of not less than \$100.00 and not more than \$1,000.00 for each and every one of these violations under 15 U.S.C. § 1681n(a)(1)(A), in addition to punitive damages as the Court may allow under 15 U.S.C. § 1681n(a)(2).

86. Plaintiffs and the putative class are further entitled to recover their costs and attorneys' fees, in accordance with 15 U.S.C. § 1681n(a)(3).

WHEREFORE, Plaintiffs, on behalf of themselves and the putative class, pray for relief as follows:

- a. determining that this action may proceed as a class action;

- b. designating Plaintiffs as class representatives and designating Plaintiffs' Counsel as counsel for the putative class;
- c. issuing proper notice to the putative class at Mednax's expense;
- d. awarding statutory damages as provided by the FCRA, including punitive damages, to members of the putative class; and
- e. awarding reasonable attorneys' fees and costs as provided by the FCRA.

DEMAND FOR JURY TRIAL

Plaintiffs and the putative class demand a trial by jury.

Dated this 28th day of January, 2022.

/s/ Marc R. Edelman
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Fax: 813-257-0572
Medelman@forthepeople.com
Attorney for Plaintiff

**IN THE CIRCUIT COURT FOR THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA
CIVIL DIVISION**

ALBERTO PEREZ, CREAM FISHLEY,
and KATHY CARR, on behalf
of themselves and on behalf of all others
similarly situated,

Plaintiffs,

v.

Case No.:

MEDNAX SERVICES, INC., a Florida
Profit Corporation,

Defendant.

_____ /

SUMMONS

THE STATE OF FLORIDA:
TO ALL AND SINGULAR THE SHERIFFS OF SAID STATE:
GREETINGS:

YOU ARE HEREBY COMMANDED to serve this Summons and a copy of the complaint or petition in this action upon defendant(s):

MEDNAX SERVICES, INC.
c/o Corporation Service Company, its Registered Agent
1200 S. Pine Island Road
Plantation, FL 33324

IMPORTANT

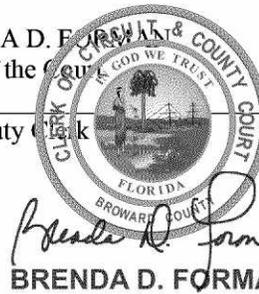
A lawsuit has been filed against you. You have 20 calendar days after this Summons is served on you to file a written response to the attached Complaint with the Clerk of the Court. A phone call will not protect you. Your written response, including the case number given above and the names of the parties, must be filed if you want the Court to hear your side of the case. If you do not file your response on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the Court. There are other legal requirements. You may want to call an Attorney right away. If you do not know an Attorney, you may call an attorney referral service or a legal aid office (listed in the phone book). If you choose to file a written response yourself, at the same time you file your written response to the Court you must also mail or take a copy of the written response to the Plaintiff's attorney:

Marc Edelman, Esquire
Morgan & Morgan, P.A.
201 N. Franklin Street, Suite 700
Tampa, FL 33602
Telephone: 813-223-5505 Facsimile: 813-223-5402

DATED: FEB 01 2022

(Court Seal)

BRENDA D. FORMAN
Clerk of the Court
By: _____
As Deputy Clerk



Warren Sua
1547
BRENDA D. FORMAN

“If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator, Room 20140, 201 S.E. Sixth Street, Fort Lauderdale, Florida 33301, 954-831-7721 at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days. If you have a hearing or voice disability you can contact the court through the Florida Relay Service by calling 711.”

EXHIBIT B



BRENDA D. FORMAN
CLERK OF THE COURTS
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Case Detail - Public

Print

Alberto Perez, et al Plaintiff vs. Mednax Services, Inc. Defendant

Broward County Case Number: CACE22001446
State Reporting Number: 062022CA001446AXXXCE
Court Type: Civil
Case Type: Other - Discrimination Employment or Other
Incident Date: N/A
Filing Date: 01/28/2022
Court Location: Central Courthouse
Case Status: Pending
Magistrate Id / Name: N/A
Judge ID / Name: 02 Bowman, John B.

- Party(ies) Total: 4

Party Type	Party Name	Address	Attorneys / Address ★ Denotes Lead Attorney



Party Type	Party Name	Address	Attorneys / Address ★ Denotes Lead Attorney
Plaintiff	Perez, Alberto		★ Edelman, Marc R Retained Bar ID: 96342 Morgan & Morgan 201 N. Franklin Street # 700 Tampa, FL 33602 Status: Active
Plaintiff	Fishley, Creah		★ Edelman, Marc R Retained Bar ID: 96342 Morgan & Morgan 201 N. Franklin Street # 700 Tampa, FL 33602 Status: Active
Plaintiff	Carr, Kathy		★ Edelman, Marc R Retained Bar ID: 96342 Morgan & Morgan 201 N. Franklin Street # 700 Tampa, FL 33602 Status: Active
Defendant	Mednax Services, Inc.		

- Disposition(s) Total: 0

Date	Statistical Closure(s)		
Date	Disposition(s)	View	Page(s)

- Event(s) & Document(s) Total: 8

Date	Description	Additional Text	View	Pages

Date	Description	Additional Text	View	Pages
02/04/2022	Summons Returned Served	3rd day of February, 2022 Party: <i>Defendant</i> Mednax Services, Inc.		1
02/01/2022	Clerk's Certificate of Compliance W-2020-73CIV/2020-74-UFC	NONE		1
01/28/2022	Per AOSC20-23 Amd12, Case is determined General			
01/28/2022	Civil Cover Sheet	Amount: \$30,001.00		3
01/28/2022	Complaint (eFiled)	CLASS ACTION AND DEMAND FOR JURY TRIAL Party: <i>Plaintiff</i> Perez, Alberto <i>Plaintiff</i> Fishley, Creah <i>Plaintiff</i> Carr, Kathy		16
01/28/2022	eSummons Issuance	Party: <i>Defendant</i> Mednax Services, Inc.		2
01/28/2022	Request for Production of Documents	FIRST TO DEFENDANT Party: <i>Plaintiff</i> Perez, Alberto <i>Plaintiff</i> Fishley, Creah <i>Plaintiff</i> Carr, Kathy		11
01/28/2022	Notice of Service of Interrogs	FIRST SET TO DEFENDANT Party: <i>Plaintiff</i> Perez, Alberto <i>Plaintiff</i> Fishley, Creah <i>Plaintiff</i> Carr, Kathy		2

- Hearing(s) Total: 0

There is no Disposition information available for this case. ^

- Related Case(s) Total: 0

There is no related case information available for this case.

Brenda D. Forman

Clerk of Court

Broward County
17th Judicial Circuit

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GLOSSARY OF TERMS (HTTPS://WWW.BROWARDCLERK.ORG//WEB2/CASESEARCHECA/GLOSSARY/) >>

Main Courthouse Location

201 SE 6th Street

Fort Lauderdale

Florida, US 33301

Phone: (954) 831-6565



PUBLIC RECORDS CUSTODIAN (/GENERALINFORMATION/MISCELLANEOUS#PUBLICRECORDSCUSTODIAN) >

PURSUANT TO 119.12(2), F.S.

PUBLIC ACCESS TO JUDICIAL RECORDS (/GENERALINFORMATION/MISCELLANEOUS#JUDICIALRECORDRULE) >

PURSUANT TO RULE 2.420

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**IN THE CIRCUIT COURT FOR THE SEVENTEENTH JUDICIAL CIRCUIT
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ALBERTO PEREZ, CREAM FISHLEY,
and KATHY CARR, on behalf
of themselves and on behalf of all others
similarly situated,

Plaintiffs,

v.

Case No.:

MEDNAX SERVICES, INC., a Florida
Profit Corporation,

Defendant.

_____ /

**PLAINTIFFS' NOTICE OF SERVICE
OF FIRST SET OF INTERROGATORIES TO DEFENDANT**

Plaintiffs, Alberto Perez, Cream Fishley and Kathy Carr, on behalf of themselves and on behalf of all others similarly situated, by and through the undersigned counsel, hereby serves their First Set of Interrogatories, propounded to Defendant, Mednax Services, Inc., to be answered within thirty (30) days after service hereof, in writing, under oath.

Dated this 28th day of January, 2022.

/s/ Marc R. Edelman
MARC R. EDELMAN, ESQ.
Fla. Bar No. 0096342
MORGAN & MORGAN, P.A.
201 N. Franklin Street, Suite 700
Tampa, FL 33602
Telephone: 813.223.5505
Fax: 813-257-0572
Medelman@forthepeople.com
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of January, 2022, a true and correct copy of the foregoing has been filed via the Florida e-filing portal and has been provided via process server with initial process to Defendant's registered agent, CT Corporation System, 1200 S. Pine Island Road, Plantation, FL 33324.

/s/ Marc R. Edelman
MARC R. EDELMAN, ESQ.

**IN THE CIRCUIT COURT FOR THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA
CIVIL DIVISION**

ALBERTO PEREZ, CREAM FISHLEY,
and KATHY CARR, on behalf
of themselves and on behalf of all others
similarly situated,

Plaintiffs,

v.

Case No.:

MEDNAX SERVICES, INC., a Florida
Profit Corporation,

Defendant.

_____ /

PLAINTIFFS' FIRST SET OF INTERROGATORIES TO DEFENDANT

Pursuant to Florida Rule of Civil Procedure 1.340 and other applicable law, Plaintiffs, Alberto Perez, Cream Fishley and Kathy Carr ("Plaintiffs"), on behalf of all others similarly situated, by and through the undersigned counsel, propounds the following First Set of Interrogatories ("Interrogatories"), to Defendant, Mednax Services, Inc. ("Defendant").

Dated this 28th day of January, 2022.

/s/ Marc R. Edelman
MARC R. EDELMAN, ESQ.
Florida Bar No.: 0096342
MORGAN & MORGAN, P.A.
201 N. Franklin Street, Suite 700
Tampa, FL 33602-5157
Telephone: 813-223-5505
Facsimile: 813-257-0572
medelman@forthepeople.com
Attorney for Plaintiff

I. DEFINITIONS

The following terms shall have the following meanings:

1. “Relevant Time Period” includes the period of time January 28, 2017 through the present.
2. “Any” shall include and encompasses “all.”
3. “Communication” shall refer to an instance in which words or information are transferred or transmitted between two or more persons by whatever manner or means, and regardless of how or by whom the communication was initiated including, but not limited to, correspondence, conversations, instructions, meetings, requests, demands, and conferences.
4. “Plaintiffs” shall refer to Alberto Perez, Creah Fishley and Kathy Carr.
5. “Defendant” shall refer to Mednax Services, Inc., including any subsidiaries, affiliates or other entities operating under the “Mednax Services, Inc.” brand.
6. “You” (or “your”) shall refer to Defendant identified above and/or any managers, directors, administrators, officers, executives, agents, contractors, fiduciaries, employees or other representatives of Defendant.
7. “Person” shall mean any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.
8. “Consumer” shall refer to an individual who was an employment applicant or an employee during the Relevant Time Period.
9. “Consumer Report” or “consumer report” shall refer to any written, oral, or other communication of any information by a consumer reporting agency bearing on consumer’s character, general reputation, personal characteristics, or mode of living which is used or expected to be used as a factor in establishing a consumer’s eligibility for employment purposes.

10. “Consumer Reporting Agency” (“CRA”) shall refer to a person or organization which, for monetary fees, assembles or evaluates credit information or other information on consumers for the purpose of regularly furnishing consumer reports (including consumer reports) to third parties using any means or facility of interstate commerce.

11. “Hiring Process” shall include making a decision regarding whether to hire an applicant or not hire an applicant.

12. “FCRA” shall refer to The Fair Credit Reporting Act, 15. U.S.C § 1681 et. seq.

13. “Written Disclosures” as required under the FCRA include (a) a clear, conspicuous, and stand-alone disclosure provided to an employment applicant prior to Defendant obtaining a consumer report from a CRA; (b) a pre-adverse action disclosure describing the employment applicant’s rights under the FCRA and enclosing a copy of the employment applicant’s consumer report; and/or (c) an adverse action disclosure informing employment applicants they were not hired based upon the results of their consumer report.

14. “Organizational Structure” shall refer to the hierarchical arrangement of authority, communications, rights and duties of an organization. Organizational structure determines how roles, power, and responsibilities are assigned and controlled. It also determines how information flows between different levels of management.

15. “Describe” shall mean to identify, express, explain, set forth, relate, recount, depict, and/or delineate. A description of an oral or written communication includes an identification of the communicators, the date(s), and substance of the communication.

16. “Identify,” when used in relation to a natural person, means to provide sufficient information about the person to identify that person and make arrangements for service of a subpoena including the person’s (a) full name, (b) last known employer and occupation, (c) last

known business address and telephone number, (d) title and dates of service, and (e) last known residence address and telephone number.

17. “Identify,” when used in relation to an entity, means to provide sufficient information about the entity to identify that entity and make arrangements for service of a subpoena including the (a) full name of the entity, (b) legal form of the entity (whether it is a corporation, partnership, etc.), (c) state of incorporation (if any), (d) date of incorporation or the date the business relationship was established, (e) address and telephone number of the headquarters, (f) address and telephone number of the principal place of business, (g) person designated for service of process, and (h) address designated for service of process.

18. “Identify,” when used in relation to a document, means to either (a) furnish a clear and legible copy of the document in question or (b) describe the document with sufficient particularity such that a formal request or subpoena for its production may be made, including the identity of the document’s the custodian, (2) the date(s) that the document was signed, (3) the date the document was produced (if it was not signed), (4) the identity of the document’s author, (5) a summary of the nature of the document’s contents, and (6) the identity of the person whose testimony could be used to authenticate each document and who could lay the foundation for its introduction into evidence.

19. The terms “document” and “documents” include, without limitation, any typewritten, handwritten, graphic, photographic, printed or otherwise recorded matter or recording of symbols in tangible form, however produced or reproduced, of every kind and regardless of where located, which is in your possession, custody, or control or in the possession, custody, or control of any servant or agent of you or of your attorneys. The terms include electronically recorded information, such as electronic mail (“email”), html files, databases, data

processing cards or tapes, computerized data, computer diskettes, or information otherwise contained on a computer's hard drive, disks or backup tapes, video tapes, audio tapes, view-graphs, any information maintained on digital, electronic, magnetic or other media, and any other summary, schedule, memorandum, note, statement, letter, telegram, interoffice communication, report, diary, worksheet, list, graph, chart, index, tape recording, partial or complete report of telephone or oral conversation, transcript or minutes, compilation, tabulation, study, analysis, or other such writing or recording. Electronically recorded information shall also be produced in native format and all metadata shall be included.

20. The terms "document" and "documents" include any originals, all file copies, all other copies, no matter how prepared, and all drafts prepared in connection with such documents, whether or not used, as well as the folder in which the documents are maintained. A draft or non-identical copy of a document, including a copy or duplicate of a document which has any nonconforming notes, marginal annotations or other markings, and any preliminary version, draft or revision of the foregoing, is a separate document within the meaning of these terms.

21. "Relating to" means regarding, supporting, tending to support, refuting, tending to refute, or concerning (including, mentioning, stating, discussing, summarizing, describing, reflecting, containing, referring to, depicting, connected with, embodying, evidencing, constituting, comprising, reporting, pertaining to, or having any connection with or bearing upon), directly or indirectly, the matter in question.

II. INSTRUCTIONS

1. Each interrogatory should be answered separately upon knowledge, information and belief of Defendant, its officers, directors, attorneys, agents, employees and representatives acting on behalf of Defendant.
2. If the complete answer to an interrogatory is not known, Defendant shall so state and answer as fully as possible each part of such interrogatory to which an answer is known.
3. The interrogatories shall be “continuing” to the full extent permitted under Fla. R. Civ. P 1.340.
4. If any information is withheld under a claim of privilege, the following shall be provided with respect to such information: every person to whom such information has been communicated by Defendant; from whom such information was learned by Defendant; the nature of such information, and the basis upon which such privilege is claimed.
5. All grounds for an objection to an interrogatory shall be stated with specificity.

III. PLAINTIFF’S FIRST SET OF INTERROGATORIES

INTERROGATORY NO. 1:

Identify all experts or persons known to you who have knowledge of facts relevant to this case, and state the subject of testimony, giving a brief description thereof, and identify all documents received from or communicated to such person by you regarding the Plaintiffs, or the subject matter of this case. If you intend to qualify any of these persons as experts, please so indicate, giving their areas of expertise and their credentials as experts.

ANSWER:

INTERROGATORY NO. 2:

Identify all of your employees, representatives, or the like who procured Plaintiffs' consumer report in 2021, including his or her job title and place of employment.

ANSWER:

INTERROGATORY NO. 3:

Identify and describe all efforts by you to comply with the FCRA within the Relevant Time Period, including internal audits and audits by outside companies or individuals and identify all communications and other documents that regard same.

ANSWER:

INTERROGATORY NO.4:

Identify all attorney or other compliance opinions you received, internally or otherwise, regarding compliance with 15 U.S.C. § 1681b(b)(3)(A) (If you agree to forgo any defense to "willfulness" that is based in full or part on advice of counsel and would thus assert a claim of privilege, please state such in lieu of a substantive answer).

ANSWER:

INTERROGATORY NO. 5

Provide the following information pertaining to any policy or procedures followed by you to comply with 15 U.S.C. § 1681b(b)(3)(A) during the Relevant Time Period, including the date the policy was first created, the individuals who drafted and/or revised the policy, and any changes made to the policy (inclusive of what was added, deleted, or replaced) and the dates of such changes.

ANSWER:

INTERROGATORY NO. 6:

How many applicants were rejected for employment in whole or in part because of their consumer report, during the Relevant Time Period through the present?

ANSWER:

INTERROGATORY NO. 7:

Identify all applicants that were rejected for employment in whole or in part because of their consumer report, during the Relevant Time Period through the present.

ANSWER:

INTERROGATORY NO. 8:

Identify all applicants that were rejected for employment in whole or in part because of their consumer report, during the Relevant Time Period through the present, that you contend received pre-adverse action notice and a copy of their consumer report prior to being subjected to an adverse employment action.

ANSWER:

INTERROGATORY NO. 9:

Do you contend Plaintiffs were not subject to an adverse employment action based in whole or in part on their consumer reports in 2021?

ANSWER:

MEDNAX SERVICES, INC.

By: _____

Its: _____

STATE OF: _____

COUNTY OF _____

Sworn to and subscribed before me this _____ day of _____, 2022, by _____, its _____, who is ___ personally known to me or ___ produced _____ as identification.

Notary Signature

Printed Name: _____

NOTARY SEAL

**IN THE CIRCUIT COURT FOR THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA
CIVIL DIVISION**

ALBERTO PEREZ, CREAM FISHLEY,
and KATHY CARR, on behalf
of themselves and on behalf of all others
similarly situated,

Plaintiffs,

v.

Case No.:

MEDNAX SERVICES, INC., a Florida
Profit Corporation,

Defendant.

_____ /

**PLAINTIFF'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS TO DEFENDANT**

Pursuant to Florida Rule of Civil Procedure 1.350, and other applicable law, Plaintiffs, Alberto Perez, Cream Fishley, and Kathy Carr (“Plaintiffs”), on behalf of all others similarly situated, by and through the undersigned counsel, propounds the following Request for Production of Documents (this “Production Request”), attached hereto as Exhibit “A,” to Defendant, Mednax Services, Inc. (“Defendant”).

Plaintiffs request that the Defendant produce in native form for the purposes of inspection, copying, and/or testing, the documents described below. Such documents are to be produced at the offices of Plaintiffs’ counsel at Morgan & Morgan, P.A., 201 N. Franklin Street, Suite 700, Tampa, Florida 33602, within thirty (30) days of the date of service of this Production Request.

I. INSTRUCTIONS

1. Pursuant to Florida Rule of Civil Procedure 1.350, if Defendant withholds the production of any document which is in response to the following requests on the grounds that the documents is privileged or otherwise protected, Defendant shall state in a privilege log the nature of the claim, of privilege or protection and describe generally the type and nature of the document, the date of the document, the identity of the author(s), relevant addresses, and any recipients of the document, the document's present location and any other information that will enable Plaintiff and the Court to assess the applicability of the privilege or protection.

2. In accordance with Fla. R. Civ. P. 1.350, Defendant shall provide written responses to the following requests and shall produce the requested documents as they are kept in the ordinary and usual course of business or shall organize and label the documents to correspond with the categories in this request.

3. If any requested document is known by Defendant to have existed, but no longer exists or is no longer in Defendant's possession, custody, or control Defendant is requested to otherwise identify when the document became unavailable. If the document still exists but is unavailable to Defendant, Defendant is requested to identify its present custodian and location.

4. All requests for computerized data are to be produced in a computer-readable format, with keys to interpret the data and/or a glossary or index of terms.

5. Any documents produced electronically shall be produced in native format, with all metadata.

6. If any request is defined using a term of art or other terms that Defendant believes to be incorrect, but Defendant understands the nature of the document requested, Defendant shall produce the document notwithstanding the semantic or definitional error.

II. DEFINITIONS

The following terms shall have the following meanings:

1. “Relevant Time Period” includes the period of time January 28, 2017 through the present.

2. “Any” shall include and encompasses “all.”

3. “Communication” shall refer to an instance in which words or information are transferred or transmitted between two or more persons by whatever manner or means, and regardless of how or by whom the communication was initiated including, but not limited to, correspondence, conversations, instructions, meetings, requests, demands, and conferences.

4. “Plaintiffs” shall refer to Alberto Perez, Creah Fishley and Kathy Carr.

5. “Defendant” shall refer to Mednax Services, Inc., including any subsidiaries, affiliates or other entities operating under the “Mednax Services, Inc.” brand.

6. “You” (or “your”) shall refer to Defendant and/or any managers, directors, administrators, officers, executives, agents, contractors, fiduciaries, employees or other representatives of Defendant.

7. “Person” shall refer to any natural person or other legal entity, including without limitation any corporation, partnership, business, trust, agency, joint venture, or governmental organization, department, or entity.

8. “Consumer” shall refer to an individual who is an employment applicant or an employee during the Relevant Time Period.

9. “Consumer Report” or “consumer report” shall refer to any written, oral, or other communication of any information by a consumer reporting agency bearing on consumer’s character, general reputation, personal characteristics, or mode of living which is used or

expected to be used as a factor in establishing a consumer's eligibility for employment purposes.

10. "Consumer Reporting Agency" ("CRA") shall refer to a person or organization which, for monetary fees, assembles or evaluates credit information or other information on consumers for the purpose of regularly furnishing consumer reports (including consumer reports) to third parties using any means or facility of interstate commerce.

11. "FCRA" shall refer to The Fair Credit Reporting Act, 15. U.S.C § 1681 et. seq.

12. "Written Disclosures" as required under the FCRA include (a) a clear, conspicuous, and stand-alone disclosure provided to an employment applicant prior to Defendant obtaining a consumer report from a CRA; (b) a pre-adverse action disclosure describing the employment applicant's rights under the FCRA and enclosing a copy of the employment applicant's consumer report; and/or (c) an adverse action disclosure informing employment applicants they were not hired based upon the results of their consumer report.

13. "Consumer Report Process" shall include (a) Defendant providing disclosures to an employment applicant; (b) Defendant receiving a signed authorization to conduct a consumer report; (c) Defendant requesting a consumer report from a CRA; (d) Defendant transmitting an employment applicant's information to a CRA; (e) a CRA conducting an investigation on an employment applicant; (f) a CRA transmitting a consumer report to Defendant; (g) Defendant reviewing the employment applicant's consumer report provided by a CRA, (h) Defendant and/or a CRA providing pre-adverse notice and disclosures to an employment applicant; (i) a CRA processing any disputes from an employment applicant regarding the accuracy or timing of the consumer report; Defendant making a hiring decision based upon the results of the consumer report; (k) Defendant and/or a CRA providing adverse notice and disclosures to an employment applicant.

14. “Describe” shall mean to identify, express, explain, set forth, relate, recount, depict, and/or delineate. A description of an oral or written communication includes an identification of the communicators, the date(s), and substance of the communication.

15. “Identify,” when used in relation to a natural person, means to provide sufficient information about the person to identify that person and make arrangements for service of a subpoena including the person’s (a) full name, (b) last known employer and occupation, (c) last known business address and telephone number, (d) title and dates of service, and (e) last known residence address and telephone number.

16. “Identify,” when used in relation to an entity, means to provide sufficient information about the entity to identify that entity and make arrangements for service of a subpoena including the (a) full name of the entity, (b) legal form of the entity (whether it is a corporation, partnership, etc.), (c) state of incorporation (if any), (d) date of incorporation or the date the business relationship was established, (e) address and telephone number of the headquarters, (f) address and telephone number of the principal place of business, (g) person designated for service of process, and (h) address designated for service of process.

17. “Identify,” when used in relation to a document, means to either (a) furnish a clear and legible copy of the document in question or (b) describe the document with sufficient particularity such that a formal request or subpoena for its production may be made, including the identity of the document’s the custodian, (2) the date(s) that the document was signed, (3) the date the document was produced (if it was not signed), (4) the identity of the document’s author, (5) a summary of the nature of the document’s contents, and (6) the identity of the person whose testimony could be used to authenticate each document and who could lay the foundation for its introduction into evidence.

18. The terms “document” and “documents” include, without limitation, any typewritten, handwritten, graphic, photographic, printed or otherwise recorded matter or recording of symbols in tangible form, however produced or reproduced, of every kind and regardless of where located, which is in your possession, custody, or control or in the possession, custody, or control of any servant or agent of you or of your attorneys. The terms include electronically recorded information, such as electronic mail (“email”), html files, databases, data processing cards or tapes, computerized data, computer diskettes, or information otherwise contained on a computer’s hard drive, disks or backup tapes, video tapes, audio tapes, view-graphs, any information maintained on digital, electronic, magnetic or other media, and any other summary, schedule, memorandum, note, statement, letter, telegram, interoffice communication, report, diary, worksheet, list, graph, chart, index, tape recording, partial or complete report of telephone or oral conversation, transcript or minutes, compilation, tabulation, study, analysis, or other such writing or recording. Electronically recorded information shall also be produced complete with unaltered native application metadata.

19. The terms “document” and “documents” include any originals, all file copies, all other copies, no matter how prepared, and all drafts prepared in connection with such documents, whether or not used, as well as the folder in which the documents are maintained. A draft or non-identical copy of a document, including a copy or duplicate of a document which has any nonconforming notes, marginal annotations or other markings, and any preliminary version, draft or revision of the foregoing, is a separate document within the meaning of these terms.

20. “Metadata” means the data found within documents. It includes all electronically stored information that describes or defines the document that is not generally visible in the ordinary electronic display or printing of the document. Common examples include comments,

markups, revisions, the author's name, the owner's name, the names of those who have edited the document, creation dates, edit dates, and other information including, but not limited to, records of past versions and drafts.

21. "Native format," as it relates to the production of electronic data, means the file format in which the document is ordinarily read and written by its related software application. For example, a Microsoft Word 2003 document has a native format of .doc while an Adobe Acrobat document has a native format of .pdf.

22. "Relating to" means regarding, supporting, tending to support, refuting, tending to refute, or concerning (including, mentioning, stating, discussing, summarizing, describing, reflecting, containing, referring to, depicting, connected with, embodying, evidencing, constituting, comprising, reporting, pertaining to, or having any connection with or bearing upon), directly or indirectly, the matter in question.

III. SCOPE OF DISCOVERY

1. Unless otherwise stated in a specific discovery request, these requests for production of documents shall be deemed to cover the Relevant Time Period as defined above.

2. All requests phrased in either the disjunctive ("or") or conjunctive ("and") or both, should be interpreted in the manner that makes Defendant's response inclusive rather than exclusive.

3. The singular form of a term shall include the plural and vice-versa whenever such dual construction will serve to bring within the scope of these requests for production of documents any information which would otherwise not be brought within their scope.

4. These requests for production of documents are continuing requests and require production of all responsive documents discovered or prepared after your initial responses to

these requests.

IV. OBJECTIONS AND DOCUMENTS WITHHELD

1. If you object to part of a document request and refuse to answer that part, state your objection and answer the remaining portion of that document request. If you object to the scope or time period of a document request and refuse to answer for that scope or time period, state your objection and answer the document request for the scope or time period you believe is appropriate.

2. With respect to any requested document which you refuse to produce in response to these requests for production of documents, please state:

- a. the full identity of the document including:
 - i. the date of document;
 - ii. its title (if any);
 - iii. its authors, addresses, recipients or parties;
 - iv. the nature of the document (e.g., letter, memorandum, etc.);
 - v. the individual or source from whom or which you obtained it; and
 - vi. its present location and identity of its custodian;
- b. whether your objection or refusal is directed to the entire document or part thereof;
- c. if your objection or refusal goes to part of the document, specify the specific part(s) of the document to which your objection or refusal is directed;
- d. the specific factual basis which gives rise to the objection or refusal; and the specific legal ground on which the objection or refusal is based.

3. If any of the following requested documents cannot be located or produced after exercising due diligence to secure the information, please so state and respond to the extent possible, specifying your inability to respond fully and stating whatever information you have

concerning the non-produced documents. If your response is qualified in any way, please set forth the details of such qualification.

Dated this 28th day of January, 2022.

/s/ Marc R. Edelman
MARC R. EDELMAN, ESQ.
Florida Bar No.: 0096342
MORGAN & MORGAN, P.A.
201 N. Franklin Street, Suite 700
Tampa, FL 33602-5157
Telephone: 813-223-5505
Facsimile: 813-257-0572
medelman@forthepeople.com
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of January, 2022, a true and correct copy of the foregoing has been filed via the Florida e-filing portal and has been provided via process server with initial process to Defendant's registered agent, CT Corporation System, 1200 S. Pine Island Road, Plantation, FL 33324.

/s/ Marc R. Edelman
MARC R. EDELMAN, ESQ.

EXHIBIT "A"

REQUEST FOR PRODUCTION OF DOCUMENTS

1. All documents related to Plaintiffs' applications for employment with Mednax Services, Inc. ("Mednax").
2. Any FCRA disclosures or authorizations provided to Plaintiffs in 2021.
3. Any documents containing Defendant's hiring eligibility criteria for 2021 for any position for which any of the Plaintiffs applied.
4. All internal e-mails, communications or correspondence referencing any of the Plaintiffs between September, 2021 and the present.
5. Plaintiffs' consumer reports.
6. Any contracts or agreements with HireRight effective between September, 2021 and the present.
7. All written procedures for providing pre-adverse action notice to affected applicants and employees in effect during the Relevant Time Period.
8. All policies and procedures concerning the FCRA's pre-adverse action notice requirements pursuant to 15 U.S.C. § 1681b(b)(3) during the Relevant Time Period.
9. All internal communications, memoranda, policies or training materials concerning or involving Defendant's FCRA compliance with respect to the use of consumer reports for employment purposes during the Relevant Time Period.
10. All communications, memoranda, policies or training materials in place during the respective Relevant Time Period governing Defendant's use of consumer reports for employment purposes.

11. All materials in Defendant's possession stating, describing or addressing Defendant's obligations to comply with 15 U.S.C. § 1681b(b)(3) during the Relevant Time Period.

12. All documents containing, describing or addressing Defendant's procedures for compliance with 15 U.S.C. § 1681b(b)(3) in effect during the Relevant Time Period.

13. All materials documenting the resources Defendant has devoted to compliance with 15 U.S.C. § 1681b(b)(3) during the Relevant Time Period.

14. All documents, policies and procedures for providing consumers with copies of their consumer report during the Relevant Time Period.

15. Contracts, memorandum of understanding or other documentation which establish obligations of the parties between Defendant and any consumer reporting agency Defendant used Plaintiffs' consumer reports or any other consumer during the Relevant Time Period.

16. A copy of any and all policy or procedure manuals or documents Defendant received from a consumer reporting agency from whom it procured Plaintiffs' consumer reports related to the use of consumer reports for employment purposes.

17. Documents that demonstrate Defendant certified to the consumer reporting agency from whom Defendant procured Plaintiffs' consumer reports, that Defendant would comply with §1681b(b)(3), if applicable.

18. Any documents Defendant contends to be evidence the FCRA violations alleged in Plaintiff's complaint are not "willful."

19. Any legal opinions Defendant obtained from outside counsel pertaining to Defendant's compliance with 15 U.S.C. § 1681b(b)(3).

FORM 1.997. CIVIL COVER SHEET

The civil cover sheet and the information contained in it neither replace nor supplement the filing and service of pleadings or other documents as required by law. This form must be filed by the plaintiff or petitioner with the Clerk of Court for the purpose of reporting uniform data pursuant to section 25.075, Florida Statutes. (See instructions for completion.)

I. CASE STYLE

IN THE CIRCUIT/COUNTY COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT,
IN AND FOR BROWARD COUNTY, FLORIDA

Alberto Perez, Creah Fishley, Kathy Carr
Plaintiff

Case # _____
Judge _____

vs.

Mednax Services, Inc.
Defendant

II. AMOUNT OF CLAIM

Please indicate the estimated amount of the claim, rounded to the nearest dollar. The estimated amount of the claim is requested for data collection and clerical processing purposes only. The amount of the claim shall not be used for any other purpose.

- \$8,000 or less
- \$8,001 - \$30,000
- \$30,001- \$50,000
- \$50,001- \$75,000
- \$75,001 - \$100,000
- over \$100,000.00

III. TYPE OF CASE (If the case fits more than one type of case, select the most definitive category.) If the most descriptive label is a subcategory (is indented under a broader category), place an x on both the main category and subcategory lines.

IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT IN
AND FOR BROWARD COUNTY, FLORIDA

Case No: CA02-22-001446

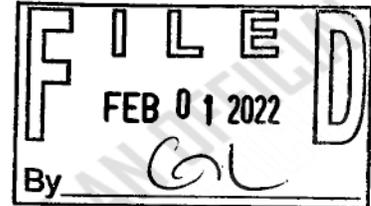
Judge Division: 02

Alberto Perez
Plaintiff

VS

Medmax Services,
Defendant

Inc.



CLERK'S CERTIFICATE OF COMPLIANCE

I hereby certify that pursuant to Administrative Order, No. 2020-73Civ/2020-74-UFC:
"ADMINISTRATIVE ORDER DIRECTING CLERK OF COURTS WITH REGARD TO
DISMISSED CIVIL OR FAMILY CASES",

The Clerk has conducted a search for all previous existing civil cases related to
these two parties.

Listed below are all the aforementioned related cases: NONE

Brenda D. Forman
Circuit and County Courts

By: CAL

Deputy Clerk

RETURN OF SERVICE

State of Florida

County of Broward

Circuit Court

Case Number: 22-CA-1446

Plaintiff:

ALBERTO PEREZ, CREA H FISHLEY, and KATHY CARR, on behalf of themselves and on behalf of all others similarly situated

vs.

Defendant:

MEDNAX SERVICES, INC.

For:

Marc R. Edelman, Esquire

Received by Parlaw Services on the 2nd day of February, 2022 at 9:16 pm to be served on **MEDNAX SERVICES, INC. C/O Corporation Service Company, 1200 S. Pine Island Road, Plantation, FL 33324**.

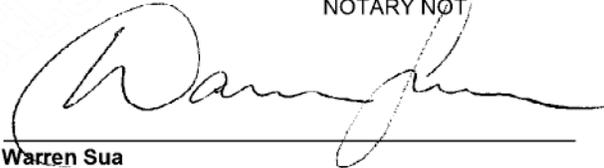
I, Warren Sua, do hereby affirm that on the **3rd day of February, 2022 at 2:10 pm, I:**

served a **CORPORATION** by delivering a true copy of the **Summons, Complaint, Request to Produce and Interrogatories w/Notice** with the date and hour of service endorsed thereon by me, to: **Donna Moch as Supervisor/Authorized To Accept Service for MEDNAX SERVICES, INC.**, at the address of: **1200 S. Pine Island Road, Plantation, FL 33324**, and informed said person of the contents therein, in compliance with state statutes.

Description of Person Served: Age: 50+, Sex: F, Race/Skin Color: White, Height: 5'3", Weight: 140, Hair: Dark Brown, Glasses: N

I certify that I am over the age of 18, have no interest in the above action, and am a Certified Process Server, in good standing, in the jurisdiction which the process was served. Under penalty of perjury, I declare that I have read the foregoing Affidavit of Service and that the facts stated in it are true.
REQUIRED PURSUANT TO F.S.92.525(2).

NOTARY NOT



Warren Sua
SPS#1547

Parlaw Services
P.O. Box 13434
Tampa, FL 33681-3434
(813) 846-5869

Our Job Serial Number: JMS-2022000491
Ref: 12325436 (491/388)



ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Claims Mednax Services Background Check Process Violates Federal Law](#)
