

UNITED STATES BANKRUPTCY COURT

PROOF OF CLAIM

Name of Debtor:
ALC Holdings LLC., et al.

Case Number:
11-13853

2012 FEB 27 AM 10:53
CLERK
US BANKRUPTCY COURT
DISTRICT OF DELAWARE

NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.

Name of Creditor (the person or other entity to whom the debtor owes money or property):
Heather J. Nicholls

COURT USE ONLY

Name and address where notices should be sent:
Kevin R. Lomupo, Esquire
Gilardi, Oliver & Lomupo
223 Fourth Avenue, 10th Floor, Pittsburgh, PA 15222
Telephone number: (412) 391-9770 email: krlomupo@lawgol.com

Check this box if this claim amends a previously filed claim.

Court Claim Number: _____
(If known)

Filed on: _____

Name and address where payment should be sent (if different from above):

RECEIVED

MAR 01 2012

BMC GROUP

Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.

Telephone number: _____ email: _____

1. Amount of Claim as of Date Case Filed: \$ 180,000

If all or part of the claim is secured, complete item 4.

If all or part of the claim is entitled to priority, complete item 5.

Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.

2. Basis for Claim: Personal Injury
(See instruction #2)

3. Last four digits of any number by which creditor identifies debtor:

3a. Debtor may have scheduled account as:

(See instruction #3a)

3b. Uniform Claim Identifier (optional):

(See instruction #3b)

4. Secured Claim (See instruction #4)

Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information.

Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any:

\$ _____

Nature of property or right of setoff: Real Estate Motor Vehicle Other
Describe:

Basis for perfection: _____

Value of Property: \$ _____

Amount of Secured Claim: \$ _____

Annual Interest Rate _____ % Fixed or Variable
(when case was filed)

Amount Unsecured: \$ _____

5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507 (a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount.

Domestic support obligations under 11 U.S.C. § 507 (a)(1)(A) or (a)(1)(B).

Wages, salaries, or commissions (up to \$11,725*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier – 11 U.S.C. § 507 (a)(4).

Contributions to an employee benefit plan – 11 U.S.C. § 507 (a)(5).

Amount entitled to priority:

Up to \$2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. § 507 (a)(7).

Taxes or penalties owed to governmental units – 11 U.S.C. § 507 (a)(8).

Other – Specify applicable paragraph of 11 U.S.C. § 507 (a)(____).

\$ _____



*Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

6. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)

7. Documents: Attached are **redacted** copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. If the claim is secured, box 4 has been completed, and **redacted** copies of documents providing evidence of perfection of a security interest are attached. (See instruction #7, and the definition of "redacted".)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

8. Signature: (See instruction #8)

Check the appropriate box.

- I am the creditor. I am the creditor's authorized agent. I am the trustee, or the debtor, I am a guarantor, surety, indorser, or other codebtor.
(Attach copy of power of attorney, if any.) or their authorized agent. (See Bankruptcy Rule 3005.)
(See Bankruptcy Rule 3004.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: Kevin R. Lomupo, Esquire
Title: President
Company: Gilardi, Oliver & Lomupo
Address and telephone number (if different from notice address above):

(Signature)

(Date)

Telephone number: _____ email: _____

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, exceptions to these general rules may apply.

Items to be completed in Proof of Claim form

Court, Name of Debtor, and Case Number:

Fill in the federal judicial district in which the bankruptcy case was filed (for example, Central District of California), the debtor's full name, and the case number. If the creditor received a notice of the case from the bankruptcy court, all of this information is at the top of the notice.

Creditor's Name and Address:

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

1. Amount of Claim as of Date Case Filed:

State the total amount owed to the creditor on the date of the bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

2. Basis for Claim:

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on delivering health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if an interested party objects to the claim.

3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:

State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

3a. Debtor May Have Scheduled Account As:

Report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

3b. Uniform Claim Identifier:

If you use a uniform claim identifier, you may report it here. A uniform claim identifier is an optional 24-character identifier that certain large creditors use to facilitate electronic payment in chapter 13 cases.

4. Secured Claim:

Check whether the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See Definitions.) If the claim is secured, check the box for the nature and value of property that secures the claim, attach copies of lien documentation, and state, as of the date of the bankruptcy filing, the annual interest rate (and whether it is fixed or variable), and the amount past due on the claim.

5. Amount of Claim Entitled to Priority Under 11 U.S.C. § 507 (a).

If any portion of the claim falls into any category shown, check the appropriate box(es) and state the amount entitled to priority. (See Definitions.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

6. Credits:

An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

7. Documents:

Attach redacted copies of any documents that show the debt exists and a lien secures the debt. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary in addition to the documents themselves. FRBP 3001(c) and (d). If the claim is based on delivering health care goods or services, limit disclosing confidential health care information. Do not send original documents, as attachments may be destroyed after scanning.

8. Date and Signature:

The individual completing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what constitutes a signature. If you sign this form, you declare under penalty of perjury that the information provided is true and correct to the best of your knowledge, information, and reasonable belief. Your signature is also a certification that the claim meets the requirements of FRBP 9011(b). Whether the claim is filed electronically or in person, if your name is on the signature line, you are responsible for the declaration. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. If the claim is filed by an authorized agent, attach a complete copy of any power of attorney, and provide both the name of the individual filing the claim and the name of the agent. If the authorized agent is a servicer, identify the corporate servicer as the company. Criminal penalties apply for making a false statement on a proof of claim.

DEFINITIONS

INFORMATION

Debtor

A debtor is the person, corporation, or other entity that has filed a bankruptcy case.

Creditor

A creditor is a person, corporation, or other entity to whom debtor owes a debt that was incurred before the date of the bankruptcy filing. See 11 U.S.C. §101 (10).

Claim

A claim is the creditor's right to receive payment for a debt owed by the debtor on the date of the bankruptcy filing. See 11 U.S.C. §101 (5). A claim may be secured or unsecured.

Proof of Claim

A proof of claim is a form used by the creditor to indicate the amount of the debt owed by the debtor on the date of the bankruptcy filing. The creditor must file the form with the clerk of the same bankruptcy court in which the bankruptcy case was filed.

Secured Claim Under 11 U.S.C. § 506 (a)

A secured claim is one backed by a lien on property of the debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car. A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien.

A claim also may be secured if the creditor owes the debtor money (has a right to setoff).

Unsecured Claim

An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

Claim Entitled to Priority Under 11 U.S.C. § 507 (a)

Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

Redacted

A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information. A creditor must show only the last four digits of any social-security, individual's tax-identification, or financial-account number, only the initials of a minor's name, and only the year of any person's date of birth. If the claim is based on the delivery of health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information.

Evidence of Perfection

Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

Acknowledgment of Filing of Claim

To receive acknowledgment of your filing, you may either enclose a stamped self-addressed envelope and a copy of this proof of claim or you may access the court's PACER system (www.pacer.psc.uscourts.gov) for a small fee to view your filed proof of claim.

Offers to Purchase a Claim

Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court or the debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(e), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 *et seq.*), and any applicable orders of the bankruptcy court.

Mail to:

United States Bankruptcy Court
Attn: Claims
824 Market Street, 3rd Floor
Wilmington, DE 19801

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

HEATHER J. NICHOLLS,

Plaintiff,

vs.

AMERICAN LASER CENTERS;
AMERICAN LASER CENTERS, INC.;
ALC of PENNSYLVANIA, LLC; and
ALC-PARTNER, INC.;

Defendants.

CIVIL DIVISION

No.: AD0918077

Issue No.:

Code: 009

Pleading:
COMPLAINT

Filed On Behalf Of:
Plaintiff

Counsel Of Record For This Party:

Kevin R. Lomupo, Esquire
PA I.D. # 40996

GILARDI, COOPER & LOMUPO
Firm # 157

The Benedum Trees Building
223 Fourth Avenue, 10th Floor
Pittsburgh, PA 15222

(412) 391-9770

krlomupo@lawgcl.com

JURY TRIAL DEMANDED

FILED

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DEPT. OF COURTS
CIVIL/FAMILY DIVISION
ALLEGHENY COUNTY

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

HEATHER J. NICHOLLS,]	CIVIL DIVISION
]	
Plaintiff,]	
]	
vs.]	
]	G.D. No.:
AMERICAN LASER CENTERS;]	
AMERICAN LASER CENTERS, INC.;]	
ALC of PENNSYLVANIA, LLC; and,]	JURY TRIAL DEMANDED
ALC-PARTNER, INC.;]	
]	
Defendants.]	

COMPLAINT

AND NOW comes the plaintiff, by and through her attorneys Gilardi, Cooper & Lomupo, and Kevin R. Lomupo, Esquire and files the following Complaint based upon the following causes of action:

Count I
Negligence

Heather J. Nicholls v. American Laser Centers; American Laser Centers, Inc.;
ALC of Pennsylvania, LLC; and ALC-Partner, Inc.;

FIRST: The plaintiff is an adult individual who resides at 112 Sunset Drive, Pittsburgh, Allegheny County, Pennsylvania, 15235.

SECOND: The defendant, American Laser Centers is a Pennsylvania corporation which owns and operates business located at 200 Fleet Street, Suite 701 Jacob Center, Pittsburgh, Allegheny County, Pennsylvania.

THIRD: The defendant, American Laser Centers, Inc., is a Pennsylvania corporation which owns and operates a business located at 200 Fleet Street, Suite 701 Jacob Center, Pittsburgh, Allegheny County, Pennsylvania, 15220.

FOURTH: The defendant, ALC of Pennsylvania, LLC is a Pennsylvania corporation which owns and operates a business in Pittsburgh, Pennsylvania and has its principle place of business located at 24555 Hallwood Court, Farmington Hills, Michigan, 48335.

FIFTH: The defendant, ALC-Partner, Inc., is a corporation which owns and operates a business in Pittsburgh, Pennsylvania and has its principle place of business located at 24555 Hallwood Court, Farmington Hills, Michigan, 48335.

SIXTH: Hereinafter the above defendants are collectively referred to as the "Defendant Corporations".

SEVENTH: At all times relevant hereto the Defendant Corporations were acting through their agents, servants and employees who were then and there engaged upon the business of the defendants and acting within the scope of their employment authority.

EIGHTH: On or about February 24, 2007, the plaintiff's mother made a first contact at the American Laser Center's Fleet Street location in Pittsburgh, and met with a "consultant", Dawn Stellabotte, who holds no license of any kind in the Commonwealth of Pennsylvania.

NINTH: Based upon an interview with Ms. Stellabotte on or about February 24, 2007 the plaintiff, who at the time was a minor, gave her "Consent for Laser Hair Removal" via parental signature, to be performed at the Fleet Street location. A minimum of six (6) treatments were to take place approximately every ten weeks.

TENTH: Ms. Stellabotte advised the plaintiff's mother that treatments would be performed by registered nurses.

ELEVENTH: The consent form stated that "LightSheer™ Diode Laser, Comet™ Diode Laser and Radiofrequency, or Aurora™ Intense pulsed Light and Radiofrequency (IPL/RF) treatment" would be used for hair removal.

TWELTH: The consent form required that the plaintiff acknowledge her awareness of a variety of significant medical contraindications to treatment including but not limited to conditions such as Lupus, diabetes, seizures, scleroderma, moles and Human Immunodeficiency Virus (HIV) as well as several medications.

THIRTEENTH: The plaintiff's mother was required to sign a "Notice of Privacy Practices" provided by Ms. Stelebotte which set forth major requirements under the Health Insurance Portability and Accountability Act (HIPPA). It states "we are required by law to maintain the privacy of, and provide individuals with, this notice of our legal duties and privacy practices with respect to protected health/personal information. If you have any questions about this form, please ask to speak with our HIPP Compliance Officer..."

FOURTEENTH: The Health Portability and Accountability Act 1.0 states that the Act applies only to "covered entities", which it defines as health care plans, health care clearinghouses and health care providers which transmit any health information in electronic form.

FIFTEENTH: The devices sited in Paragraph Eighteen, above, are classified as "General and Plastic Surgery Devices" by the Food and Drug Administration, Department

of Health and Human Services Title 21, Chapter I, Part 878 and may sold only to licensed medical practitioners.

SIXTEENTH: The Food and Drug Administration's Center for Devices and Radiological Health, the American Medical Association Health and Ethics Policies and the American College of Surgeons Statement, state that the use of lasers carries the risk of any surgical procedure and that patients should be assured that individuals who perform these types of surgery are licensed physicians who meet appropriate professional standards. The *Joint ASPS & ASAPS Guiding Principles: Supervision of Non-Physician Personnel in Medical Spas and Physician Offices*, the American Academy of Dermatology, the Health and the American Society of Laser Medicine Surgery, and the Allegheny County Medical Society agree that use of surgical laser devices is the practice of medicine and can be used by non physicians only when an appropriately trained physician is on the premises.

SEVENTEENTH: The American Laser Centers are Ambulatory Surgical Facilities as defined in 28 Pa. Code § 553 Subpart F § 551.21 but are not registered with the Commonwealth of Pennsylvania and do not carry the accreditations set forth in 20 Pa. Code § 534 (a) (1).

EIGHTEENTH: The Pennsylvania State Board of Cosmetology which regulates the scope of practice for Estheticians holds that "Laser use for hair removal is considered to be a medical procedure and not the practice of cosmetology."

NINETEENTH: The Defendants advertise the use of Estheticians at their salons and solicit employment of Estheticians in the Pittsburgh area to perform laser hair removal and other aesthetic surgeries in violation of the provisions of the 20 Pa. Code §

551.52 and Pennsylvania State Board of Medicine, Pa. Code 49 § 16.1, (a) (6) and (8).

TWENTIETH: The plaintiff's mother signed a consent form for the plaintiff's surgical hair removal treatments based solely upon the assessment, recommendations, and explanations of Ms. Stellabotte.

TWENTY-FIRST: Between February 24, 2007 and October 11, 2008, the plaintiff received surgical laser hair removal approximately every nine weeks but never saw an overseeing physician at the Fleet Street location. No medical history was taken, no medical evaluation of the plaintiff was performed by a medical doctor or any medically licensed employee, and there was no oversight of treatments by a physician at the Fleet Street location.

TWENTY-SECOND: On or about October 11, 2008 the plaintiff presented to the Fleet Street location for a surgical laser hair removal treatment. The plaintiff underwent surgical hair removal treatment by an unidentified technician, who was medically untrained, medically unlicensed and medically unsupervised, and who negligently performed the hair removal procedure upon the plaintiff using one or more dermatological laser surgical devices. Said treatment caused the plaintiff to sustain serious and severe burns to all aspects of both of her lower legs.

TWENTY-THIRD: The plaintiff reported her burns to personnel at American Laser Center but was not offered evaluation by any physician or other medical personnel. Rather, a variety of inappropriate remedies, including microdermabrasion and various creams, were offered by Diana Smith, Clinic Manager, and other unidentified employees.

TWENTY-FOURTH: The plaintiff underwent the recommended treatments but experienced no improvement in her burns.

TWENTY-FIFTH: The plaintiff was burned and permanently scarred as a direct result of the defendants' negligence as further set forth below.

TWENTY-SIXTH: The injuries and damages as hereinafter set forth, were the direct and proximate result of the negligence of the defendants, who were negligent through the actions of their agents, servants, and employees generally, and in the following particulars:

a) In negligently failing to establish and follow procedures and protocols for regular maintenance, calibration, diagnostics and repairs of surgical light laser devices used to treat the plaintiff;

b) In negligently failing to follow recommendations of the surgical laser device manufacturer for regular maintenance, calibration, diagnostics and repair of the surgical laser device used to treat the plaintiff;

c) In negligently failing to employ and train personnel to carry out regular equipment maintenance, calibration, diagnostics and repairs consistent with recommendations of the surgical laser device manufacturer;

d) In negligently failing to properly maintain surgical laser devices used to treat the plaintiff in safe operating condition;

e) In negligently failing to inspect the condition of the surgical laser devices used to treat the plaintiff;

f) In negligently failing to discover the dangerous condition of the surgical

laser devices used to treat the plaintiff;

g) In negligently failing to remove or remedy the hazardous conditions of the surgical laser devices used to treat the plaintiff;

h) In negligently failing to warn the plaintiff of the dangerous condition of the surgical laser devices when the defendants knew or should have known the devices could be dangerous to persons such as the plaintiff;

i) In negligently failing to use the correct pre-settings on the surgical laser devices prior to treating the plaintiff;

j) In negligently failing to employ the correct filters and other attachments to the surgical laser devices prior to treating the plaintiff;

k) In negligently failing to correctly prepare the plaintiff's skin prior to treatment with the surgical laser devices;

l) In negligently failing to employ a Medical Director and medical advisors with formal training, expertise and board certification in medical subspecialties which included the use of dermatological surgical laser devices for cosmetic and hair removal purposes;

m) In negligently failing to employ an appropriately trained Physician's Assistant to perform surgical dermatological treatments to the plaintiff at the Fleet Street location in accordance with the terms of a current Agreement registered with the Commonwealth of Pennsylvania and designating a supervising physician who is formally trained and certified in the practice of dermatologic surgical hair removal with laser technology to oversee the treatment in accord with 049 Pa. Code § 18.155 (a) and (b),

(1) through (6);

n) By negligently soliciting estheticians to perform medical procedures by treating the plaintiff and others using dermatological surgical devices, and thus violating the regulations of the Pennsylvania State Board of Cosmetology, which holds that “Laser use for hair removal is considered to be a medical procedure and not the practice of cosmetology.”

o) By negligently soliciting estheticians to perform medical procedures by treating the plaintiff and others using dermatological surgical equipment, and through the actions of its medical advisors engaging in Unprofessional and Immoral Conduct by “Knowingly permitting, aiding or abetting a person who is not licensed or certified, or exempt from license or certification requirements to perform activities requiring a license or certification in a health care practice” as set forth in 049 Pa Code § 049 Pa. Code 16.61 (a) (8).

p) In negligently failing to formulate, implement and evaluate a formalized and comprehensive training program for the safe and effective use of dermatological surgery devices by employees;

q) In negligently failing to formally train and test the knowledge and competency of technicians before allowing them to treat persons such as the plaintiff using surgical laser devices;

r) In negligently utilizing a topical treatment prior to the laser treatment which was not safe for its intended use;

s) In negligently burning/scarring the plaintiff's legs;

t) In negligently failing to prevent the development of burns on the plaintiff's legs while utilizing the surgical laser devices;

u) In negligently failing to remove the hair from the plaintiff's legs as advertised and guaranteed;

v) In negligently violating the laws of the Commonwealth of Pennsylvania, Allegheny County and the City of Pittsburgh;

w) In negligently failing to employ a physician licensed in the Commonwealth of Pennsylvania and possessing formal training and board certification in a medical specialty that includes treatment with surgical dermatological devices present to oversee the plaintiff's laser surgical treatments as required by Pa. Code 49 Subchapter G § 18.402;

x) In negligently violating the plaintiff's Rights under Pa. Code 28 § 553.11.

y) In negligently practicing the healing arts with reckless indifference to the interest of the plaintiff and others on numerous occasions by soliciting, authorizing, and permitting non-medical personnel to recommend and carry out treatments using surgical dermatological devices without any competent medical supervision whatsoever;

z) In negligently and with reckless indifference to the interests of the plaintiff, causing severe burning and permanent scarring over all surfaces of both lower legs;

aa) In negligently failing to refer the plaintiff to a dermatology specialist for assessment and treatment of the burns/scarring which had resulted from hair removal treatment performed by the defendants.

TWENTY-SEVENTH: As a direct result of the negligence of the defendants as aforesaid, the plaintiff has sustained the following serious and severe injuries:

- a) Severe skin burns and unsightly rash on her legs;
- b) Disfigurement and permanent scarring of her legs;
- c) Other serious and severe injuries.

TWENTY-EIGHTH: As a direct and proximate result of the negligence of the defendants and the plaintiff's injuries as aforesaid, the plaintiff has been damaged as follows:

- a) She has in the past and may in the future be required to spend large and substantial sums of money for medical care and treatment because of her injuries;
- b) She has in the past and may in the future suffer great physical pain, suffering and inconvenience;
- c) She has in the past and may in the future suffer from embarrassment and humiliation because of her disfiguring injuries;
- d) She has in the past and may in the future be limited in her normal activities;
- e) Her general health, strength and vitality have been impaired and this impairment is possibly permanent;
- f) All of the foregoing personal injuries and damages are possibly permanent in nature.

WHEREFORE, Plaintiff demands judgment in her favor and against each of the defendants in an amount in excess of Twenty-Five Thousand (\$25,000.00) Dollars exclusive of costs and interest.

JURY TRIAL DEMANDED

COUNT II
Unfair Trade Practices Act
Heather J. Nicholls v. American Laser Centers; American Laser Centers, Inc.;
ALC of Pennsylvania, LLC; and ALC-Partner, Inc.;

TWENTY-NINTH: Paragraphs First through Twenty-eighth are hereby incorporated by reference as if set forth at length.

THIRTIETH: At all times relevant hereto the defendants represented to the plaintiff that all technicians were properly trained and licensed to perform the laser treatments, when in fact said technicians were not properly licensed or trained.

THIRTY-FIRST: The defendants made representations through communications directly to the plaintiff and through advertisements, including guaranteeing that the treatment would in fact succeed and permanently remove the hair from the plaintiff's legs.

THIRTY-SECOND: The treatments given to plaintiff did not perform as communicated, advertised and/or guaranteed.

THIRTY-THIRD: The misrepresentations, omissions, concealment of facts and the confusion and misunderstanding created by defendants concerning the quality and safety of the laser hair removal offered by the defendants and sold to the plaintiff, constituted unfair methods of competition and unfair or deceptive practices within the meaning of the Pennsylvania Unfair Trade Practices and Consumer Protection Law (73 P.S. 201-1 et seq.).

THIRTY-FOURTH: The acts of the defendants as set forth above, are violations of, but are not limited to, the following sections of the Pennsylvania Unfair

Trade Practices and Consumer Protection Law: 201-2(4)(ii), 201-2(4)(v), 201-2(4)(vii), 201-2(4)(ix), and 201-2(4)(xiv). These violations render the defendants liable to plaintiff for the damages set forth below.

THIRTY-FIFTH: As a direct result of the violations of the Pennsylvania Unfair Trade Practices and Consumer Protection Law, plaintiff suffered an ascertainable loss as the result of these defendants' use or employment of these unfair methods of competition and unfair or deceptive acts or practices.

WHEREFORE, plaintiff seeks judgment in her favor and against each of the defendants in the amount of three times her actual damages, and all other damages recoverable pursuant to the Pennsylvania Unfair Trade Practices and Consumer Protection Law (73 P.S. 201-9.2).

JURY TRIAL DEMANDED

COUNT III

Misrepresentation and Fraud

**Heather J. Nicholls v. American Laser Centers; American Laser Centers, Inc.;
ALC of Pennsylvania, LLC; and ALC-Partner, Inc.;**

THIRTY-SIXTH: Paragraphs First through Thirty-Fifth are hereby incorporated by reference as if the same were more fully set forth herein.

THIRTY-SEVENTH: As set forth above, Defendants knowingly and fraudulently misrepresented to the plaintiff its ability to perform the laser treatments as advertised and misrepresented that its technicians were properly trained and licensed to perform the laser treatments, when in fact said technicians were not properly licensed or trained.

THIRTY-EIGHTH: Specifically, Defendants intentionally and knowingly failed to register the Fleet Street site with the Commonwealth of Pennsylvania as a “satellite location”; defendants intentionally and knowingly failed to provide physician oversight to a Physician’s Assistant in accordance with the provisions of 049 Pa. Code § 18.155 (a) through (c), the *Joint ASPS & ASAPS Guiding Principles: Supervision of Non-Physician Personnel in Medical Spas and Physician Offices*, the American Academy of Dermatology, the Health and Ethics Policies of the American Medical Association House of Delegates, and the Allegheny County Medical Society; defendants intentionally and knowingly permitted, aided or abetted, unlicensed or uncertified personnel to perform activities requiring a license or certification in a health care practice” as set forth in 049 Pa Code § 049 Pa. Code 16.61 (a) (8); the defendants intentionally and knowingly through its medical advisors engaged in unprofessional and immoral conduct by practicing the healing arts fraudulently, and with reckless indifference to the interests of the plaintiff and others on repeated occasions as defined in The Physicians and Surgeons Medical Practice Act of 1985, 63 P.S. § 422.21. The actions of the defendants were done in an attempt to intentionally mislead and confuse the plaintiff and to coerce her into believing the defendants were properly licensed and certified to perform the laser treatments as advertised and sold by defendants.

THIRTY-NINTH: As a direct result of the defendants’ fraudulent misrepresentations the plaintiff has sustained injuries and damages as set forth above.

FORTIETH: The actions of the defendants, as set forth above, constitute reckless indifference to the rights of the plaintiff and render the defendants liable for punitive damages.

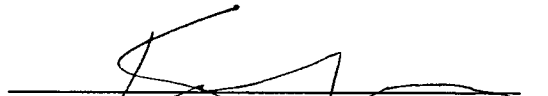
WHEREFORE, plaintiff demands judgment in her favor and against each of the Defendants in an amount in excess of Twenty-Five Thousand (\$25,000.00) Dollars, with an award of punitive or exemplary damages, and such other relief as deemed just by the Court, together with an award of attorney's fees and costs of suit.

JURY TRIAL DEMANDED

Respectfully submitted,

GILARDI, COOPER & LOMUPO

By


Kevin R. Lomupo, Esquire
Attorney for Plaintiff

VERIFICATION

I, Kevin R. Lomupo, Esquire, hereby state that I am counsel to the plaintiffs herein, and am authorized to make this verification on the plaintiffs' behalf. I make this verification because the statements set forth in the foregoing *Complaint* are uniquely known to me based on knowledge, information and belief.

I verify that the statements made in the foregoing pleading are true and correct to the best of my knowledge, information and belief. I understand that false statements are made subject to 18 Pa. C.S. §4904 providing for criminal penalties for unsworn falsification to authorities.



Kevin R. Lomupo, Esquire
Counsel for Plaintiff

DATE: 10/2/09



ATTORNEYS AT LAW

FILED

February 20, 2012

CLERK
US BANKRUPTCY COURT
DISTRICT OF DELAWARE

United States Bankruptcy Court
Attn: Claims
824 Market Street, 3rd Floor
Wilmington, DE 19801

Re: Creditor: Heather J. Nicholls
Case No.: 11-13853

To Whom It May Concern:

Enclosed for filing, please find an original Proof of Claim, an extra copy, and a self-addressed, stamped envelope regarding the above-captioned matter. Please file the original and time stamp the extra copy and return to me in the envelope provided. If you have any questions, please feel free to contact my office.

Very truly yours,

GILARDI, OLIVER & LOMUPO

Kevin R. Lomupo

KRL/pan
Enclosure

FedEx. US Airbill

Express **8726 8134 8931**



Recipient's Copy

1 From **USA** To **USA**

Sender's Name **[Redacted]** Phone **[Redacted]**

Company **[Redacted]**

Address **[Redacted]**

City **[Redacted]** State **[Redacted]** ZIP **[Redacted]**

2 Your Internal Billing Reference **[Redacted]**

RECEIVED
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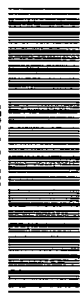
BMC GROUP

3 To Recipient's Name **[Redacted]** Phone **[Redacted]**

Company **[Redacted]**

Address **[Redacted]**

City **[Redacted]** State **[Redacted]** ZIP **[Redacted]**



8726 8134 8931

4a Express Package Service **Standard Overnight** **2 Day** **Next Business Day** **International Priority**

4b Express Freight Service **Standard** **Next Business Day** **International**

5 Packaging **Standard** **Special Handling** **Signature Required**

6 Special Handling and Delivery Signature Options **Signature Required** **Signature Required - Restricted** **Signature Required - Restricted (Signature Required)**

7 Payment Bill **Sender** **Recipient** **Third Party** **Cardholder** **Cardholder**

8 Other Services **Signature Required** **Signature Required - Restricted** **Signature Required - Restricted (Signature Required)**

9 Total Packages **1** Total Weight **1.00** Total Declared Value **100.00**

10 Total Packages **1** Total Weight **1.00** Total Declared Value **100.00**

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45 Total Packages **1** Total Weight **1.00** Total Declared Value **100.00**