ORIGINAL

**UNITED STATES BANKRUPTCY COURT**
**DISTRICT OF DELAWARE**

# PROOF OF CLAIM

| Name of Debtor: | Case Number: |
|---|---|
| ALC of Iowa, LLC | 11-13864 |

*NOTE: See reverse and attached for List of Debtors/Case Numbers/Important details. Other than claims under 11 U.S.C. § 503(b)(9), this form should not be used to make a claim for Administrative Expenses arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503(a).*

**Name of Creditor** (the person or other entity to whom the debtor owes money or property):
Marna Jean Miller

Name and address where notices should be sent:

| | | |
|---|---|---|
| Larry D. Krpan | Mark S. Pennington | Brian A. Sullivan |
| Larry Krpan Law Office | KUTMUS and PENNINGTON, P.C. | Werb & Sullivan |
| 2700 Westown Parkway, Suite 300 | 604 Locust Street, #618 | 300 Delaware Ave., Suite 1300 |
| West Des Moines, Iowa 50266 | Des Moines, Iowa 50309 | Wilmington, Delaware 19801 |
| (515) 274-1321 | (515) 288-3339 | (302) 652-1100 |
| lkrpanlaw@aol.com | mark@kutmusandpennington.com | bsullivan@werbsullivan.com |

Creditor Telephone Number ( ) email:

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

Payment Telephone Number ( ) email:

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

RECEIVED
MAR 14 2012
BMC GROUP

If you have already filed a proof of claim with the Bankruptcy Court or BMC, you do not need to file again.

**THIS SPACE IS FOR COURT USE ONLY**

☐ Check this box to indicate that this claim amends a previously filed claim.
**Court Claim Number (If known):** _____
Filed on: _____

**1. AMOUNT OF CLAIM AS OF DATE CASE FILED** $ Unliquidated

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

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

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

**2. BASIS FOR CLAIM:** (See instruction #2) Injury and Damages From Laser Treatment - See attached Petition at Law

**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 your claim is secured by a lien on property or a right of set off, attach required redacted documents, and provide the requested information.

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

**Value of Property:** $ _____

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

**Amount of arrearage and other charges, as of time case filed, included in secured claim, if any:** $ _____

**Basis for Perfection:** _____

**Amount of Secured Claim:** $ _____

**Amount Unsecured:** $ _____

**5. Amount of Claim Entitled to Administrative Expense status under 11 U.S.C. § 503(b)(9) or 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 administrative expense or priority and state the amount.**

**Amount entitled to priority:** $ _____

**You MUST specify the priority of the claim:**

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

☐ 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).

☐ Wages, salaries, or commissions (up to $11,725*), earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4).

**Amount entitled to administrative expense under 11 U.S.C. § 503(b)(9):** $ _____

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

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

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

☐ Value of goods received by the debtor within 20 days before the date of the bankruptcy filing - 11 U.S.C. § 503(b)(9).

** 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.*

ALC Holdings
00162

**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 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 definition of "redacted").

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

If the documents are not available, please explain:

**DATE-STAMPED COPY** To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

**The original of this completed proof of claim form must be sent by mail or hand delivered (FAXES NOT ACCEPTED).**

**BY MAIL TO:**
BMC Group, Inc.
Attn: ALC Holdings, LLC Claims Processing
PO Box 3020
Chanhassen, MN 55317-3020

**BY MESSENGER OR OVERNIGHT DELIVERY TO:**
BMC Group, Inc.
Attn: ALC Holdings, LLC Claims Processing
18675 Lake Drive East
Chanhassen, MN 55317

**8. SIGNATURE:** (See instruction #8)

Check the appropriate box.

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

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

Print Name: Brian A. Sullivan
Title: Attorney
Company: Werb & Sullivan

(Signature) 3/13/12 (Date)

Address and telephone number (if different from notice address above):

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.*

**LIST OF DEBTORS:**

| Debtor Name | Case Number | Debtor Name | Case Number | Debtor Name | Case Number |
|---|---|---|---|---|---|
| ALC Holdings, LLC | 11-13853 | ALC of Iowa LLC | 11-13864 | ALC of Pennsylvania LLC | 11-13875 |
| American Laser Centers LLC | 11-13854 | ALC of Kansas LLC | 11-13865 | ALC of Tennessee LLC | 11-13876 |
| ALC HC, Inc. | 11-13855 | ALC of Louisiana LLC | 11-13866 | ALC of Texas LLC | 11-13877 |
| ALC of Alabama LLC | 11-13856 | ALC of Massachusetts LLC | 11-13867 | ALC of Utah LLC | 11-13878 |
| ALC of Arizona LLC | 11-13857 | ALC of Michigan LLC | 11-13868 | ALC of Virginia LLC | 11-13879 |
| ALC of Colorado LLC | 11-13858 | ALC of Minnesota LLC | 11-13869 | ALC of Washington LLC | 11-13880 |
| ALC of Connecticut LLC | 11-13859 | ALC of Missouri LLC | 11-13870 | ALC of Wisconsin LLC | 11-13881 |
| ALC of Georgia LLC | 11-13860 | ALC of Nevada LLC | 11-13871 | ALC Products, LLC | 11-13882 |
| ALC of Florida | 11-13861 | ALC of New York LLC | 11-13872 | American Laser Centers of California LLC | 11-13883 |
| ALC of Indiana LLC | 11-13862 | ALC of North Carolina LLC | 11-13873 | American Laser Centers of Puerto Rico LLC | 11-13884 |
| ALC of Illinois LLC | 11-13863 | ALC of South Carolina LLC | 11-13874 | ALC Licensor, LLC | 11-13885 |

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

| | | |
|---|---|---|
| MARNA JEAN MILLER,<br><br>Plaintiff,<br><br>v.<br><br>AMERICAN LASER CENTERS OF IOWA LLC a/k/a ALC OF IOWA LLC and a/k/a AMERICAN LASER CENTERS,<br><br>Defendants. | ) | LAW NO. CL120009<br><br>**ORIGINAL NOTICE** |

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY NOTIFIED that a Petition has been filed in the office of the Clerk of this Court naming you as a defendant in this action. A copy of the Petition is attached to this notice. The attorneys for the plaintiffs are Mark S. Pennington, Kutmus & Pennington, P.C., 604 Locust, Suite 618, Des Moines, Iowa 50309; (515) 288-3339; fax number (515) 288-8629; and e-mail mark@kutmusandpennington.com.; and Larry D. Krpan, 2700 Westown Pkwy, Ste. 300, West Des Moines, Iowa 50266; (515) 274-1321; fax number (515) 274-6617; and e-mail krpanlaw@aol.com.

You must serve a motion or answer within 20 days after service of this original notice upon you and within a reasonable time thereafter, file your motion or answer with the Clerk of Court for Polk County, at the county courthouse in Des Moines, Iowa. If you do not, judgment by default may be rendered against you for the relief demanded in the Petition.

If you require the assistance of auxiliary aids or services to participate in court, because of a disability, immediately call your district ADA coordinator at 1-515-286-3394. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

Randy Cahow

CLERK OF COURT
Polk County Courthouse
500 Mulberry St..
Des Moines, IA 50309

***IMPORTANT***

YOU ARE ADVISED TO SEEK LEGAL ADVICE AT ONCE TO PROTECT YOUR INTERESTS.

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

| | | |
|---|---|---|
| MARNA JEAN MILLER,<br><br>Plaintiff,<br><br>v.<br><br>AMERICAN LASER CENTERS OF IOWA LLC a/k/a ALC OF IOWA LLC and a/k/a AMERICAN LASER CENTERS,<br><br>Defendants. | ) | LAW NO. CL120009<br><br>**PETITION AT LAW** |

COMES NOW THE PLAINTIFF Marna Jean Miller, and in support of her Petition at Law, states to the Court as follows:

**DIVISION I - NEGLIGENCE**

1. At all times material hereto, Plaintiff Marna Jean Miller (hereinafter "Miller"), was a resident of Des Moines, Polk County, Iowa.

2. At all times material hereto, Defendant American Laser Centers of Iowa LLC (hereinafter "ALC"), was a foreign limited liability corporation doing business in the State of Iowa under the business entity name ALC of Iowa LLC and American Laser Centers.

3. At all times material hereto, ALC operated a retail laser establishment at 3701 Woodland Avenue in West Des Moines, Polk County, Iowa.

4. At all times material hereto, ALC held itself out to the public, including Miller, as having expertise in the area of laser treatment and specific expertise and hair removal through laser treatment.

5. On or about May 24, 2008, Miller entered into a contract for treatment for hair

removal on her legs for a package of six (6) treatments with a two (2) year guarantee.

6. On or about December 26, 2008, an ALC employee administered a laser treatment to Miller which resulted in burns and scarring on Miller's lower legs.

7. The administration of the laser procedure constituted negligence.

8. At all times material hereto, ALC employees were acting within the scope of their employment as agents or employees for ALC.

9. As a result of the negligence of ALC and its employees, Miller has sustained the following damages:

a. Permanent scarring;

b. Past and future mental anguish;

c. Past physical pain and suffering; and

d. Permanent injury.

**DIVISION II - RES IPSA LOQUITUR**

1 - 9. Plaintiff repeats and realleges paragraphs 1 through 9 of Division I as if set out in full herein.

10. The intended laser procedure for hair removal on Miller's legs should not cause burns nor scars.

11. The exclusive control and management of administration of the laser was in the hands of ALC and its employees. A burn injury sustained by Miller is the type of injury that within the regular course of treatment would not have occurred if reasonable and prudent care had been taken by ALC and its employees.

12. Miller intends to rely on the doctrine of res ipsa loquitur in this Division.

13. The negligence of ALC was the proximate cause of the burn injury to Miller as a result.

14. At all times material hereto, ALC employees were acting within the scope of their employment as agents or employees for ALC.

WHEREFORE, Plaintiff seeks just and reasonable compensation from the Defendants together with the cost of this action and interest at the maximum rate allowed by law.

RESPECTFULLY SUBMITTED,

Mark S. Pennington AT0006144
KUTMUS and PENNINGTON, P.C.
604 Locust St., Suite 618
Des Moines, Iowa 50309
(515) 288-3339
(515) 288-8629 fax
mark@kutmusandpennington.com

- and -

LARRY D. KRPAN AT 0004495
2700 Westown Parkway, Suite 300
West Des Moines, IA 50266
Telephone: (515) 274-1321
Fax: (515) 274-6617
krpanlaw@aol.com
ATTORNEYS FOR PLAINTIFF

Original Filed.

# WERB & SULLIVAN

ATTORNEYS AT LAW
A PARTNERSHIP OF PROFESSIONAL ASSOCIATIONS

300 DELAWARE AVENUE
P.O. BOX 25046
WILMINGTON, DELAWARE 19899

TELEPHONE: (302) 652-1100
TELECOPIER: (302) 652-1111
E-Mail: bsullivan@werbsullivan.com

Brian A. Sullivan, P.A.

COURIER DELIVERY:
300 DELAWARE AVENUE
THIRTEENTH FLOOR
WILMINGTON, DELAWARE 19801


March 13, 2012

**VIA FEDERAL EXPRESS**

BMC Group, Inc.
Attn: ALC Holdings, LLC Claims Processing
18675 Lake Drive East
Chanhassen, MN 55317

**RE: Marna Jean Miller / American Laser Centers, LLC / ALC of Iowa, LLC/ Proofs of Claims**

Dear Sir or Madam:

Attached please find the following 5 **Proofs of Claims** (one (1) original Proof of Claim and two (2) extra copies for each, to be clocked-in):

1. **American Laser Centers, LLC / Case No. 11-13854**

2. **American Laser Centers, LLC aka American Laser Centers / Case No. 11-13854**

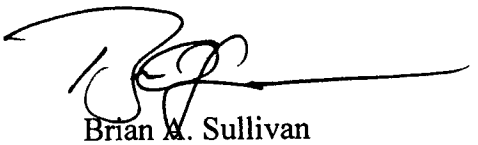
3. **ALC of Iowa, LLC / Case No. 11-13864**

4. **ALC of Iowa, LLC aka American Laser Centers of Iowa, LLC / Case No. 11-13864**

5. **ALC of Iowa, LLC aka American Laser Centers / Case No. 11-13864**

Kindly return the two (2) extra copies for each Proof of Claim (10 copies total) to our office in the enclosed envelope after they have been clocked-in. If you have any questions or concerns in this regard, please do not hesitate to contact me. Thank you for your assistance in this matter.

Very truly yours,



Brian A. Sullivan

Enclosures

FedEx Express **NEW** Package US Airbill

FedEx Tracking Number 8769 1990 2290

0200 Form ID No.

**FedEx Retrieval Copy**

**1 From**

Date 3/13/12 Sender's FedEx Account Number 233770922

Sender's Name Brian A. Sullivan Phone 302 650-1100

Company Werb and Sullivan

Address 300 Delaware Ave Suite 1300 (Dept./Floor/Suite/Room)

City Wilmington State DE ZIP 19801

**2 Your Internal Billing Reference**

**3 To**

Recipient's Name ALC Holdings, Claims Processing Phone 302 650-1100

Company BMC Group, Inc

Address 18675 Lake Drive East (Dept./Floor/Suite/Room)

We cannot deliver to P.O. boxes or P.O. ZIP codes.

Address

Use this line for the HOLD location address or for continuation of your shipping address.

City Chanhassen State MN ZIP 55317

01 ☐ HOLD Weekday — FedEx location address REQUIRED. NOT available for FedEx First Overnight.

31 ☐ HOLD Saturday — FedEx location address REQUIRED. Available ONLY for FedEx Priority Overnight and FedEx 2Day to select locations.

8769 1990 2290

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**4 Express Package Service** • To most locations.

NOTE: Service order has changed. Please select carefully.

*Packages up to 150 lbs.*
*For packages over 150 lbs., use the new FedEx Express Freight US Airbill.*

**Next Business Day**

06 ☐ FedEx First Overnight — Earliest next business morning delivery to select locations. Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

01 ☒ FedEx Priority Overnight — Next business morning.* Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

05 ☐ FedEx Standard Overnight — Next business afternoon.* Saturday Delivery NOT available.

**2 or 3 Business Days**

49 ☐ **NEW** FedEx 2Day A.M. — Second business morning.* Saturday Delivery NOT available.

03 ☐ FedEx 2Day — Second business afternoon.* Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.

20 ☐ FedEx Express Saver — Third business day.* Saturday Delivery NOT available.

**5 Packaging** • Declared value limit $500.

06 ☐ FedEx Envelope* 02 ☒ FedEx Pak* 03 ☐ FedEx Box 04 ☐ FedEx Tube 01 ☐ Other

**6 Special Handling and Delivery Signature Options**

03 ☐ **SATURDAY DELIVERY**

☐ No Signature Required — Package may be left without obtaining a signature for delivery.

10 ☒ Direct Signature — Someone at recipient's address may sign for delivery. *Fee applies.*

34 ☐ Indirect Signature — If no one is available at recipient's address, someone at a neighboring address may sign for delivery. For residential deliveries only. *Fee applies.*

**Does this shipment contain dangerous goods?**

One box must be checked.

☒ No 04 ☐ Yes — As per attached Shipper's Declaration. ☐ Yes — Shipper's Declaration not required. 06 ☐ Dry Ice — Dry Ice, 9, UN 1845 ____ x ____ kg

Dangerous goods (including dry ice) cannot be shipped in FedEx packaging or placed in a FedEx Express Drop Box. ☐ Cargo Aircraft Only

**7 Payment** *Bill to:*

Enter FedEx Acct. No. or Credit Card No. below. Obtain recip. Acct. No. ☐

1 ☒ Sender — Acct. No. in Section 1 will be billed. 2 ☐ Recipient 3 ☐ Third Party 4 ☐ Credit Card 5 ☐ Cash/Check

Total Packages 1 Total Weight ____ lbs. Credit Card Auth.

†Our liability is limited to $100 unless you declare a higher value. See the current FedEx Service Guide for details.

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