

**IN THE COUNTY COURT OF THE 11TH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

SILVIO ORESTE MENDOZA,

Case No.: 2025-058026-CC-05

Plaintiff,

v.

BAPTIST HEALTH SOUTH
FLORIDA, INC.,
Defendant.

**ORDER GRANTING DEFENDANT'S AMENDED MOTION TO DISMISS
PLAINTIFF'S COMPLAINT WITH PREJUDICE**

THIS CAUSE came before the Court, for a specially set hearing conducted via Zoom on August 8, 2025, on the Amended Motion to Dismiss Complaint With Prejudice (the "Motion"), filed by Defendant Baptist Health South Florida, Inc. ("Baptist Health"). The Court, having reviewed the Motion (DE #13), Plaintiff's response (DE # 21), applicable legal authority and having heard argument of counsel for both parties, and otherwise being duly advised in the premises, it is hereby:

ORDERED and **ADJUDGED** as follows:

Baptist Health's Amended Motion to Dismiss the Complaint is **GRANTED**. The Complaint is **DISMISSED WITH PREJUDICE** for the following reasons:

1. Plaintiff alleges that his receipt of a "Request for Payment" of an unpaid medical bill (Compl. Ex. B) was a violation of the Florida Consumer Collection Practices Act ("FCCPA") because Baptist Health had previously been notified that Plaintiff was represented by counsel with respect to the unpaid medical bill by means of a "Request for Hospital Records" (Compl. Ex. A).
2. In Count I, Plaintiff alleges that Baptist Health violated Fla. Stat. § 559.72(18), which provides, in relevant part, that: "in collecting consumer debts, no person shall communicate

with a debtor if the person knows that the debtor is represented by an attorney with respect to such debt.” Plaintiff alleges that Baptist Health breached § 559.72(18) by communicating with Plaintiff despite knowing that he was represented by an attorney with respect to the specific unpaid medical bill.

3. Florida law requires actual knowledge to establish a violation of Fla. Stat. § 559.72(18). *See Bray v. PNC Bank, N.A.*, No: 6:15-cv-1705-Orl-41TBS, 196 F. Supp. 3d 1282, 1287 (M.D. Fla. 2016) (quoting *Nordwall v. PNC Mortg.*, No. 2:14-v-747-FtM-CM, 2015 WL 4095350, at *3 (M.D. Fla. July 7, 2015); *Bacelli v. MFP, Inc.*, 729 F. Supp. 2d 1328, 1343 (M.D. Fla. 2010); *Pewzner v. Med. Recovery Specialists, LLC*, No. 12-62015-CIV-COHN/SELTZER, 2012 WL 12905552, at *1 (S.D. Fla. Dec. 5, 2012).

4. When ruling on a motion to dismiss, the Court “must limit itself to the four corners of the complaint, including any attached or incorporated exhibits, assuming the allegations in the complaint to be true and construing all reasonable inferences therefrom in favor of the non-moving party.” *Skupin v. Hemisphere Media Grp., Inc.*, 314 So. 3d 353, 355 (Fla. 3d DCA 2020) (quoting *Grove Isle Ass’n, Inc. v. Grove Isle Assocs., LLLP*, 137 So. 3d 1081, 1089 (Fla. 3d DCA 2014)). Importantly, “[t]he conclusions of the pleader, as to the meaning of the exhibits attached to the complaint, are not binding on the court. Exhibits attached to the complaint are controlling, where the allegations of the complaint are contradicted by the exhibits, the plain meaning of the exhibits will control.” *Skupin*, 314 So. 3d at 356 (quotation omitted).

5. The Court finds that the allegations of the Complaint are contradicted by the exhibits, and the plain meaning of the exhibits control. The document attached to the Complaint as Exhibit A, entitled “REQUEST FOR HOSPITAL RECORDS” (“Records Request”), is not a valid § 559.72(18), Fla. Stat., notice of representation regarding a specific debt. It is insufficient

as a matter of law to place Baptist Health on notice that Plaintiff was represented by an attorney with respect to his debt to Baptist Health.

6. The Records Request dated July 4, 2024, addressed generally to Baptist Health's "Health Information Management," states, in pertinent part:

OUR CLIENT:	Silvio Oresto Mendoza
DATE OF BIRTH:	[redacted]
DATE OF INCIDENT:	[redacted]
SOCIAL SECURITY #:	[redacted]
DATE OF SERVICE:	[redacted]

To Whom It May Concern:

Please be advised that *this office represents Silvio Oresto Mendoza in a claim for damages as a result of injuries sustained in an accident*, which occurred on 05/29/2024. Enclosed is a HIPAA Compliant Authorization form which allows you to furnish us with Silvio Oresto Mendoza's protected health information.

Accordingly, please provide a complete, legible copy of the following in electronic format only:

- Medical Records:
 - Discharge Summary
 - History and Physical
 - Emergency Department/Trauma Notes
 - Consultations
- All billing, including all itemized invoices and statements; all charges submitted to any insurer or other payer; all remittances and payment records.

This request is being made pursuant to the HITECH Act. You are required to produce all electronically stored PHI in PDF format, on a CID, DVD or thumb-drive, and 'hard copies' of all PHI which are not stored electronically in accordance with 45 C.F.R. § 164.524(c)(2)(1). Your invoice will be processed for payment if it complies with 42 U.S.C. § 17935(e) and 45 C.F. R. § 164.524(c)(4), . . .

If you have any questions, please do not hesitate to contact our office upon receipt of this correspondence.

(See Compl. Ex. A). At the bottom of the Records Request, above the identification of the law firm's offices in Miami Lakes, Orlando and New York, the letter states in small print: "PLEASE DIRECT ALL CORRESPONDENCE TO OUR MIAMI LAKES OFFICE."

7. Count I of the Complaint - - which alleges in conclusory fashion that the Records Request notified Baptist Health that Plaintiff was represented by an attorney with respect to his unpaid medical bill with Baptist Health - - is directly contradicted by the unambiguous language of the Records Request. The Records Request does not state that the attorney represents Plaintiff with respect to any debt or for collection purposes, much less any debt Plaintiff owed to Baptist Health. It does not indicate that Baptist Health should cease communications with Plaintiff.¹ It does not invoke the FCCPA. There is no reference to debt collection. The Records Request simply requests copies of all medical and billing records from Baptist Health's "Health Information Management." At best the Records Request establishes that Plaintiff authorized his personal injury attorney to obtain copies of his medical records in connection with his personal injury case. It does not provide Baptist Health with any notice that Plaintiff is represented with respect to the specific unpaid medical bill.

8. The Court agrees with Plaintiff that "federal decisions don't bind state courts on matters of state law and are only as persuasive as their reasoning merits." *Valdes v. Verona at Deering Bay Condo. Ass'n, Inc.*, 394 So. 702 (Fla. #d DCA 2024). However, in this instance, reasoning merits that the Court find *Smith v. Tampa Bay Emergency Physicians, LLC*, No.: 8:21-cv-2715-JSM-AEP, 2022WL 19226194 (M.D. Fla. May 6, 2022) as highly persuasive because it is directly on point.

9. In *Smith*, the plaintiff alleged that the defendant hospital violated Fla. Stat. § 559.72(18) by communicating with the plaintiff in connection with the collection of a debt because

¹ The statement above the identification of the law firm's three addresses, "PLEASE DIRECT ALL CORRESPONDENCE TO OUR MIAMI LAKES OFFICE," serves only to direct Baptist Health where to send the requested medical records to avoid having them sent, for example, to the New York office. It does not demand that Baptist Health cease all future communications with the Plaintiff.

the hospital knew the plaintiff was represented by an attorney with respect to the debt. The alleged notification letter in *Smith* was, as in the instant matter, nothing more than a records request. The *Smith* court held that the FCCPA claims failed as a matter of law because the records request did not provide the hospital with actual knowledge that the plaintiff was represented by an attorney with respect to any debt with the hospital at the time it sent a bill and a collection letter. The same analysis applies here.

10. The Court rejects Plaintiff's argument that actual knowledge is an "operation of mind" that must be determined by a jury as a question of fact based on all circumstantial evidence. The cases upon which Plaintiff relies for this proposition are distinguishable, involve external factors (such as bankruptcies or criminal statutes and sentencing) that directly influence the state of mind analysis and, therefore, are inapplicable to this Court's analysis of the unambiguous Records Request (Compl. Ex. A).

11. In Count II, Plaintiff alleges that Baptist Health violated Fla. Stat. § 559.72(9), which provides in relevant part that: "in collecting consumer debts, no person shall . . . assert the existence of some other legal right when such person knows that the right does not exist." Plaintiff alleges that Baptist Health violated § 559.72(9) by asserting the existence of a legal right (the right to communicate with Plaintiff) that did not exist because the Records Request notified Baptist Health that Plaintiff was represented by an attorney with respect to the unpaid medical bill.

12. Florida law requires actual knowledge to establish that a person asserted a legal right that did not exist and that the person had actual knowledge that the legal right did not exist. *See Read v. MFP, Inc.*, 85 So. 3d 1151, 1155 (Fla. 2d DCA 2012); *Williams v. Educ. Credit Mgmt. Corp.*, 88 F. Supp. 3d 1338, 1247 (M.D. Fla. 2015).

13. Count II fails to state a claim for the same reasons that Count I fails to state a claim.

The Records Request is not a notification that the Plaintiff was represented by an attorney with respect to a specific consumer debt. Accordingly, Baptist Health had the right to communicate with Plaintiff with respect to the unpaid medical bill, and did not violate § 559.72(9), Fla. Stat.

14. The Court further holds that Plaintiff lacks standing to sue for want of a concrete injury in fact.

15. Florida courts delineate the three requirements that constitute the irreducible constitutional minimum for standing. First, a plaintiff must demonstrate an “injury in fact,” which is “concrete,” “distinct and palpable,” and “actual or imminent.” Second, a plaintiff must establish “a causal connection between the injury and the conduct complained of.” Third, a plaintiff must show “a ‘substantial likelihood’ that the requested relief will remedy the alleged injury in fact.” *State v. J.P.*, 907 So. 2d 1101, 1113 n.4 (Fla. 2004). *See also Pet Supermarket, Inc. v. Eldridge*, 360 So. 3d 1201, 1205 (Fla. 3d DCA 2023) (quoting the Florida Supreme Court’s articulation of the three requirements for standing and reversing the trial court’s finding that Eldridge had standing); *Citizens for Responsible Dev., Inc. v. City of Dania Beach*, 358 So. 3d 1, 5 (Fla. 4th DCA 2023) (holding that “standing requires injury-in-fact, causation, and redressability” and affirming summary judgment in favor of the defendants on the issue of standing alone); *Southam v. Red Wing Shoe Co., Inc.*, 343 So. 3d 106, 109, 113 (Fla. 4th DCA 2022) rev. den. SC22-1052, 2022 WL 16848677 (Fla. Nov. 10, 2022) (quoting the “irreducible constitutional minimum” for standing and affirming the trial court’s granting of the defendant’s motion to dismiss for lack of standing); *DeSantis v. Fla. Educ. Ass’n*, 306 So. 3d 1202, 1213 (Fla. 1st DCA 2020) (finding the plaintiff lacked standing under *State v. J.P.*); *Giuffre v. Edwards*, 226 So. 3d 1034, 1039 (Fla. 4th DCA 2017) (quoting the “three minimal requirements for standing” and finding the plaintiff did not meet the third requirement).

16. The injury-in-fact requirement applies in FCCPA cases. *See Davis v. Prof'l Parking Mgmt Corp.*, No. 0:22-cv-61070-KMM, 2022 WL 17549961, at *3 (S.D. Fla. 2022) (dismissing plaintiff's FCCPA claim for lack of evidence of legislative intent to protect Floridians from a bare statutory violation that did not cause any injury); *Davis v. Prof'l Parking Mgmt Corp.*, No. 22-14026, 2023 WL 4542690, at *1 (11th Cir. July 14, 2023) ("Congress . . . may not simply enact an injury into existence, using its lawmaking power to transform something that is not remotely harmful into something that is.' . . . Put simply, Congress cannot statutorily procure an injury from thin air.").

17. Plaintiff failed to allege that he suffered any harm as a result of receiving the "Request for Payment" (Compl. Ex. B). With no concrete injury in fact, Plaintiff has no standing. "No concrete harm, no standing." *Hunstein v. Preferred Collection and Mgmt. Servs., Inc.*, 48 F. 4th 1236, 1250 (11th Cir. 2022) (quoting *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190, 2214 (2021)). Accordingly, the Complaint will be dismissed on this basis as well.

18. Finally, the Court finds that any amendment to the Complaint would be futile, because Plaintiff cannot present any set of facts that can convert the Records Request into proper notification to Baptist Health that Plaintiff is represented by an attorney with respect to the specific debt which is the subject of the Baptist Health's Request for Payment. Accordingly, the Motion is hereby GRANTED and the Complaint is dismissed with prejudice. Plaintiff shall take nothing by this action, and Baptist Health shall go forth hence without day.

19. The Court reserves jurisdiction to consider any timely-filed motions for attorneys' fees and/or court costs.

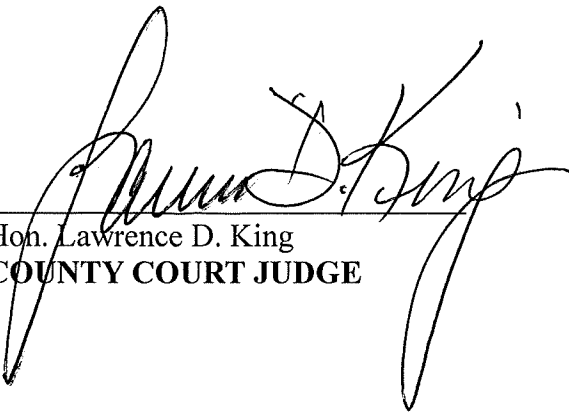
DONE and **ORDERED** in Chambers at Miami-Dade County, Florida, on this 13 day of August, 2025.

FINAL ORDER AS TO ALL PARTIES

SRS DISPOSITION

NUMBER 12

cc: All counsel of record


Hon. Lawrence D. King
COUNTY COURT JUDGE