

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR ESCAMBIA COUNTY, FLORIDA.

ERNE LEE MAGAHA
CLERK OF CIRCUIT COURT
ESCAMBIA COUNTY FL

2007 MAY -4 P 2: 00

CIRCUIT CIVIL DIVISION
FILED & RECORDED

CAREGIVERS, INC., d/b/a
TLC CAREGIVERS, a Florida
corporation,

Plaintiff,

v.

Case No.

07CA1039

VIRGINIA HEATON,

Defendant.

A

COMPLAINT

The Plaintiff, CAREGIVER, INC., d/b/a TLC CAREGIVERS (TLC),
by and through its undersigned attorneys, hereby sues the
Defendant, VIRGINIA HEATON (HEATON), and in support thereof
states as follows:

1. This is an action for damages in excess of \$15,000.00,
exclusive of accrued interest, attorneys' fees and costs.
2. The Plaintiff is a Florida corporation with its
principal place of business in Escambia County, Florida.
3. The Defendant is a resident of Escambia County,
Florida.
4. Venue is proper in Escambia County, Florida.
5. On October 13, 2003, HEATON the parties entered into a
Caregivers Service Agreement (Agreement), a copy of which is
attached hereto as Exhibit A and by reference made a part hereof.
6. Under the terms of the Agreement, TLC provide caregiver

Case: 2007 CA 001039



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Dkt: CA1024 Pg#: a

services to HEATON and HEATON agreed to pay for such services.

7. TLC rendered its invoices for services to HEATON; however, HEATON has failed to pay TLC as required under the Agreement. A copy of TLC's Statement is attached hereto as Exhibit B and by reference made a part hereof.

8. After written notice and an opportunity to pay, HEATON has failed and refused to make payments.

9. Pursuant to the terms of the Agreement, HEATON is indebted to TLC in the amount of \$56,419.80, plus accruing interest and late fees to the date of entry of a final judgment.

10. Pursuant to the terms of the Agreement, HEATON is obligated to pay TLC's reasonable attorneys' fee and costs.


WHEREFORE, the Plaintiff, CAREGIVERS, INC., d/b/a TLC CAREGIVERS, demands judgment against Defendant, VIRGINIA HEATON, in the amount of \$56,419.80, plus interest, late fees, attorney's fees, cost, and such other relief as the Court deems just and proper.

NOTE: Pursuant to the Fair Debt Collection Practices Act you are advised that this law firm is deemed to be a debt collector attempting to collect a debt and any information obtained will be used for that purpose.

VERIFICATION NOTICE:

The Plaintiff is the original creditor for this debt. In addition to the principal amount of the debt as set forth above, there may be interest, costs and attorney's fees which are due. You have thirty (30) days from receipt of this Notice to dispute the validity of the debt. If you notify me at the above address

within thirty (30) days that the debt is wholly or partially disputed, I will provide you with a verification of the debt. Unless you dispute the validity of the debt, or any portion thereof within thirty (30) days after receipt of this Notice, the debt will be assumed to be valid.



LOUIS L. LONG, JR.
Chesser & Barr, P.A.
1201 Eglin Parkway
Shalimar, FL 32579
(850) 651-9944
F: (850) 651-9867
FL BAR ID# 293131
Attorney for Plaintiff

U:\Long\TLC Caregivers\Heaton\complaint.wpd

CAREGIVERS SERVICE AGREEMENT

This Service Agreement And Agreement To Pay is executed this 13th day of October 2007, by and between Caregiver, Inc., T.L.C. Caregivers, a Florida Corporation, hereinafter referred to as "TLC" and Ms. Virginia Keaton hereinafter referred to as "Guarantor" whose address is

981 Royce St. Pensacola, Fl 32503 and Ms. Virginia Keaton hereinafter referred to as "Client" whose address is

981 Royce St. Pensacola, Fl 32503. Guarantor and Client agree they shall be jointly and severally liable for all obligations under this agreement.

1. Services to be Provided by TLC

A. TLC operates a private duty personal care company which offers sitter, live-in, housekeeping, companion and other similar services for the benefit of the elderly, disabled, and children in Escambia and Santa Rose counties, Florida. Client has need of such services and, on Client's behalf, Guarantor desired to obtain such services for the client and, together with Client, obligates himself/herself to pay for such services under the terms and conditions set forth in this agreement.

B. TLC will utilize its employee(s) to provide services to the Client based on the following initial plan:

Type of Service: Caregiving

Location of Service: As determined by client need.

Frequency of Service: As needed Beginning: start today

Hourly or Other Rate: \$ 12.85

(There shall be a four hour minimum charge for each assignment pursuant to this agreement.

Other Charges (if any): \$0.30 per mile if Caregiver uses own vehicle to transport Client or run errands.

Special Instructions: (if any) \$ 34

C. Hourly rate or Other Rate will be adjusted if the following changes occur in service:

- 1. Location of service changes
2. Client status changes requiring lifting
3. Housekeeping services are required.
4. Holiday

D. The parties acknowledge and agree that the initial plan of services, as described above, may change with Client needs. Any such changes may be made orally so long as they are agreed to by TLC, Guarantor, and Client and are documented in TLC's file reflected in billing to Guarantor. Guarantor and Client acknowledge that TLC's rates and offered services may change from time to time based on the sole discretion of TLC.

E. A four (4) hour minimum service is required with each Caregiver visit.

F. Client/Guarantor agrees to provide a credit card number as a guarantee. In return, TLC agrees to place a charge on the credit card only in the event of non-payment after 30 days, or when specifically authorized by client/guarantor.

Initials U, H

2. Other Obligations of TLC

A. TLC will maintain Workers Compensation Insurance and Personal Professional Liability Insurance covering employee(s) used by TLC in providing services to the Client. TLC will ensure that such employee(s) are screened by the Florida Department of Law Enforcement for criminal background, and by a drug screening laboratory for use of controlled substances. TLC will make all IRS and Social Security withholding payments related to employee(s) used by TLC in provision of services to the Client.

B. TLC will immediately replace any employee(s) used in the provision of direct services to Client upon 24 hours notice in writing or by telephone from Guarantor or Client to TLC.

C. TLC will cancel caregiving services contracted hereunder with a minimum four hour notice required for such cancellation.

D. TLC will render weekly bills to Guarantor for accrued fees.

EXHIBIT A

E. At the end of each shift the caregiver will present to the Guarantor, Client, or Client representative the Visit Documentation form for signature. This signature will serve to verify accuracy of services rendered.

F. TLC is not responsible for the loss of personal items including but not limited to: dentures/dental appliances, jewelry, hearing aides, orthotics, glasses/contacts, clothing.

3. Obligations of Guarantor and Client

A. Guarantor and Client, jointly and severally, obligate themselves to pay for TLC's services according to the rate of payment agreed to in Section 1.A. of this contract or any subsequent rate changed by TLC for such services. Bills will be paid promptly upon receipt and not later than fifteen (15) days after the date of such billing. Bills not paid within thirty (30) days shall be in default and interest shall accrue at the highest rate allowed by law from the date of such default until the amount is paid in full. Guarantor and Client agree that, in the case of default, TLC may suspend its services and that Guarantor and Client, jointly and severally, will be fully liable for all accrued fees and interest and for all collection of the amount due including without limitation attorney's fees, costs of litigation, travel expenses, investigative fees, court cost, manager's hourly rate of pay in time spent attempting to collect on this debt, and all other costs reasonably incurred in the bringing of the action or in anticipation thereof.

A.1. Clients receiving 24 hour/day coverage will be required to make payment no later than fifteen (15) days after service begins. Service will not continue past twenty-one (21) days if payment has not been received.

B. Guarantor and Client will supply or cause to be supplied all supplies and equipment necessary for TLC to provide services to the Client. As necessary, disposable gloves and other personal protective equipment, must be supplied by the Guarantor or the Client to protect the Caregiver from contact with any body fluid.

C. Guarantor or client, will promptly inform TLC of any desired change in TLC's services or personnel.

D. Agreement not to use TLC Employees. Client and Guarantor recognize that TLC has invested time, money, and resources in hiring and training its employees to provide services to TLC's clients. TLC's employees are a valuable resource and a legitimate business interest warranting protection. Accordingly, Guarantor and client agree that they will not hire, employ, use, contract with or agree to use any person who is currently employed by TLC or who has been employed by TLC within the preceding twelve (12) months to provide any services that TLC provides to clients or Guarantor under this agreement. client and Guarantor further agree that they will not hire, employ, use, contract with or agree to use any other caregiver service or entity of any other kind that currently assigns to Client or Guarantor, or uses as a personal caregiver, any person who is currently employed by TLC or who has been employed by TLC within the preceding twelve (12) months and who provided services to Client or Guarantor at any time. Client and/or Guarantor agree that TLC is attempting to protect its legitimate business interests and investment in its employees, and that this provision may be enforced through legal action for damages or through a suit in equity for injunctive relief. Guarantor and client, jointly and severally, agree to be fully liable for all attorneys' fees and costs incurred by TLC in the protection or enforcement of its rights under this provision. XV. H (Signature guarantor)

E. It is the responsibility of the Guarantor and/or Client to communicate all scheduling needs including any scheduling changes to the TLC office staff. At no time should scheduling needs or scheduling changes go through the individual TLC employees.

F. It is the responsibility of the Guarantor and/or client to communicate any billing errors to the TLC office immediately upon receipt of the invoice. Adjustments to bill will not be made after 20 days from the date of invoice.

G. It is the responsibility of the Guarantor and/or Client to immediately communicate, to the TLC office any concern with regard to the services provided by the Caregiver within 72 hours. Only if concerns are reported within 72 hours will an adjustments to the client's bill be considered.

H. Communicable Disease. It is the responsibility of the Client and/or Guarantor to notify TLC if the Client and/or family member has a communicable disease at start of care or at any time services are being rendered.

XV. H (Signature guarantor)

Termination of Services

A. Either the Guarantor, Client or TLC may terminate services under this agreement with or without cause upon

twenty-four (24) hours notice by writing or by telephone to the other. In case of termination by TLC, TLC shall inform both Guarantor and client. TLC shall not consider its services terminated by the Client until the termination is confirmed in writing or by telephone by the Guarantor.

5. Other Provisions

A. This agreement shall in all respects be governed by the laws of the State of Florida. Venue for all purposes shall be exclusively in Escambia County, Florida.

B. If any portion of this agreement is found to be invalid, such finding shall not prevent the enforcement of any other part.

C. All notices and billing to Guarantor shall be sent by regular mail to address furnished on page 1 of this agreement. All notices to TLC shall be sent by regular mail to Caregivers, Inc., 4400 Bayou Blvd. Suite 9 Pensacola, FL 32503.

D. To report abuse, neglect or exploitation, please call toll free 1-800-96-ABUSE.

6. Transportation:

A. TLC does not provide coverage for damages to clients' being driven by TLC employees;

B. Client's insurance will cover physical damage under client's own personal auto insurance policy;

C. Client releases TLC and its employees, officers and/or assigns from any liability or damage stemming from a TLC employee operating the Clients' auto.

Agreed and entered into by and between

Witnesses: (1 for each party)

X Lou Donaldson
Guarantor

[Signature]

Guarantor's Social Security Number _____

X Visa or MasterCard (3.00.06 % Convenience Charge)

X Expiration Date _____
Name on Card _____
Address of card holder _____

X _____
Client

Client's Social Security Number _____

Lou Donaldson

Kathaleen Holmes, General Manager

*Pre-Pay
for a week in advance.*

Statement

T L C Caregivers
 4400 Bayou Blvd, Suite 9
 Pensacola, FL 32503-19080

| |
|------------|
| Date |
| 12/31/2005 |

| |
|--|
| To: |
| VIRGINIA HEATON 981 E ROYCE ST PENSACOLA, FL 32503 |

| | | Amount Due | Amount Enc. | | |
|------------|-------------------------------------|---------------------|---------------------|-----------------------|-------------|
| | | \$56,419.80 | | | |
| Date | Transaction | Amount | Balance | | |
| 12/31/2003 | Balance forward | | 0.00 | | |
| 10/15/2004 | PMT #1018. 55235part | -449.75 | -449.75 | | |
| 10/22/2004 | PMT #1044. 55235rem, 55434part | -1,422.00 | -1,871.75 | | |
| 10/26/2004 | PMT #6571. 55434part | -1,990.80 | -3,862.55 | | |
| 11/03/2004 | INV #55235. | 1,137.23 | -2,725.32 | | |
| | -- 002, 88.5 @ \$12.85 = 1,137.23 | | | | |
| 11/04/2004 | PMT #1021. 55434rem, 55531part | -1,990.80 | -4,716.12 | | |
| 11/09/2004 | PMT #6582. 55531part | -1,990.80 | -6,706.92 | | |
| 11/16/2004 | PMT #6586. 55531rem, 55723part | -1,990.80 | -8,697.72 | | |
| 11/18/2004 | INV #55434. | 4,330.45 | -4,367.27 | | |
| | -- 002, 336 @ \$12.85 = 4,317.60 | | | | |
| | -- 993, 1 @ \$12.85 = 12.85 | | | | |
| 11/30/2004 | PMT #1025. 55723part | -1,990.80 | -6,358.07 | | |
| 12/02/2004 | INV #55531. | 4,311.18 | -2,046.89 | | |
| | -- 002, 335.5 @ \$12.85 = 4,311.18 | | | | |
| 12/17/2004 | INV #55723. | 4,338.39 | 2,291.50 | | |
| | -- 002, 335.75 @ \$12.85 = 4,314.39 | | | | |
| | -- 088, 24 @ \$1.00 = 24.00 | | | | |
| 12/27/2004 | INV #55809. | 4,317.60 | 6,609.10 | | |
| | -- 002, 336 @ \$12.85 = 4,317.60 | | | | |
| 01/12/2005 | INV #56013. | 4,320.81 | 10,929.91 | | |
| | -- 002, 336.25 @ \$12.85 = 4,320.81 | | | | |
| 02/07/2005 | INV #56148. | 9,551.70 | 20,481.61 | | |
| | -- 102, 742 @ \$12.85 = 9,534.70 | | | | |
| | -- 088, 17 @ \$1.00 = 17.00 | | | | |
| 03/08/2005 | INV #56495. | 8,966.09 | 29,447.70 | | |
| | -- 102, 697.75 @ \$12.85 = 8,966.09 | | | | |
| 04/18/2005 | INV #56859. | 9,513.73 | 38,961.43 | | |
| | -- 102, 738.5 @ \$12.85 = 9,489.73 | | | | |
| | -- 088, 24 @ \$1.00 = 24.00 | | | | |
| 05/13/2005 | INV #57157. | 9,239.15 | 48,200.58 | | |
| | -- 102, 720 @ \$12.85 = 9,252.00 | | | | |
| | -- 992 \$-12.85 | | | | |
| 05/31/2005 | PMT #1080. 57625, 57656part | -2,275.20 | 45,925.38 | | |
| CURRENT | 1-30 DAYS PAST DUE | 31-60 DAYS PAST DUE | 61-90 DAYS PAST DUE | OVER 90 DAYS PAST DUE | Amount Due |
| 0.00 | 0.00 | 0.00 | 1,027.69 | 55,392.11 | \$56,419.80 |

Statement

T L C Caregivers
 4400 Bayou Blvd, Suite 9
 Pensacola, FL 32503-19080

| |
|------------|
| Date |
| 12/31/2005 |

| |
|--|
| To: |
| VIRGINIA HEATON 981 E ROYCE ST PENSACOLA, FL 32503 |

| | | Amount Due | Amount Enc. | | |
|----------------|--|----------------------------|----------------------------|------------------------------|-------------------|
| | | \$56,419.80 | | | |
| Date | Transaction | Amount | Balance | | |
| 06/03/2005 | PMT #1087. 57656part 6/4 - 6/12 9 days | -2,559.60 | 43,365.78 | | |
| 06/13/2005 | INV #57462. --- 102, 624 @ \$12.85 = 8,018.40 | 8,018.40 | 51,384.18 | | |
| 06/14/2005 | INV #57625. --- 001, 189.5 @ \$11.85 = 2,245.58 | 2,245.58 | 53,629.76 | | |
| 06/15/2005 | PMT #1088. 57656rem, 57729part 6/13 - 6/19 | -1,990.80 | 51,638.96 | | |
| 06/21/2005 | PMT #1051. 57729part 6/20-6/26 | -1,990.80 | 49,648.16 | | |
| 06/30/2005 | PMT #1091. 57729rem, 57948part 6/27-7/3 | -1,990.80 | 47,657.36 | | |
| 07/01/2005 | INV #57656. --- 001, 321 @ \$11.85 = 3,803.85 | 3,803.85 | 51,461.21 | | |
| 07/06/2005 | PMT #1092. 57948part 7/4-7/10 | -1,990.80 | 49,470.41 | | |
| 07/16/2005 | INV #57729. --- 001, 336 @ \$11.85 = 3,981.60 --- 030, 1 @ \$3.60 = -3.60 | 3,978.00 | 53,448.41 | | |
| 07/20/2005 | PMT #1052. 57948rem, 58169part 7/11-7/24 | -3,981.60 | 49,466.81 | | |
| 07/28/2005 | INV #57948. --- 001, 336 @ \$11.85 = 3,981.60 --- 088, 24 @ \$1.00 = 24.00 | 4,005.60 | 53,472.41 | | |
| 08/04/2005 | PMT #1053. 58169rem, 58245part | -3,981.60 | 49,490.81 | | |
| 08/10/2005 | INV #58169. --- 001, 336 @ \$11.85 = 3,981.60 | 3,981.60 | 53,472.41 | | |
| 08/10/2005 | PMT #1054. 58245rem, 58316part | -1,990.80 | 51,481.61 | | |
| 08/18/2005 | PMT #1093. 58316part | -1,990.80 | 49,490.81 | | |
| 08/23/2005 | PMT #1055. 58316rem, 58546part | -1,990.80 | 47,500.01 | | |
| 08/24/2005 | INV #58245. --- 001, 336 @ \$11.85 = 3,981.60 | 3,981.60 | 51,481.61 | | |
| 09/05/2005 | INV #58316. --- 001, 330 @ \$11.85 = 3,910.50 | 3,910.50 | 55,392.11 | | |
| 09/07/2005 | PMT #1094. 58546rem | -3,981.60 | 51,410.51 | | |
| 09/13/2005 | PMT #1095. 58625part | -1,990.80 | 49,419.71 | | |
| 09/16/2005 | INV #58546. --- 001, 336 @ \$11.85 = 3,981.60 | 3,981.60 | 53,401.31 | | |
| 09/22/2005 | PMT #1060. 58625rem | -1,990.80 | 51,410.51 | | |
| CURRENT | 1-30 DAYS PAST DUE | 31-60 DAYS PAST DUE | 61-90 DAYS PAST DUE | OVER 90 DAYS PAST DUE | Amount Due |
| 0.00 | 0.00 | 0.00 | 1,027.69 | 55,392.11 | \$56,419.80 |

Statement

T L C Caregivers
 4400 Bayou Blvd, Suite 9
 Pensacola, FL 32503-19080

| |
|------------|
| Date |
| 12/31/2005 |

| |
|--|
| To: |
| VIRGINIA HEATON 981 E ROYCE ST PENSACOLA, FL 32503 |

| | |
|-------------|-------------|
| Amount Due | Amount Enc. |
| \$56,419.80 | |

| Date | Transaction | Amount | Balance | | |
|----------------|---|----------------------------|----------------------------|------------------------------|-------------------|
| 09/30/2005 | INV #58625. --- 001, 336 @ \$11.85 = 3,981.60 | 3,981.60 | 55,392.11 | | |
| 10/04/2005 | PMT #1063. 58698part | -3,981.60 | 51,410.51 | | |
| 10/13/2005 | PMT #6868. 58913part | -2,058.50 | 49,352.01 | | |
| 10/14/2005 | INV #58698. --- 001, 336 @ \$12.85 = 4,317.60 | 4,317.60 | 53,669.61 | | |
| 10/20/2005 | PMT #1065. 58913part | -2,283.80 | 51,385.81 | | |
| 10/26/2005 | INV #58913. --- 001, 391.75 @ \$12.85 = 5,033.99 | 5,033.99 | 56,419.80 | | |
| CURRENT | 1-30 DAYS PAST DUE | 31-60 DAYS PAST DUE | 61-90 DAYS PAST DUE | OVER 90 DAYS PAST DUE | Amount Due |
| 0.00 | 0.00 | 0.00 | 1,027.69 | 55,392.11 | \$56,419.80 |