

No.: 2023-08495

Janice Dean, Myra Arellano, Matthew  
Blumrick, Daisy Hernandez, and Jorge  
Estepa

vs.

Pegasus Fund, LLC

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§

In the District Court of  
  
Harris County, Texas  
  
151st Judicial District

## **PLAINTIFFS' FIRST AMENDED PETITION**

### **1. Discovery Level**

1.1 Plaintiffs intend to conduct discovery in this matter under Level 3 of Rule 190 of the Texas Rules of Civil Procedure. Per Texas Rule of Civil Procedure 47(c)(5), Plaintiffs seek an amount exceeding \$1,000,000.00.

### **2. Parties**

2.1 Plaintiff Janice Dean is a resident of Texas.

2.2 Plaintiff Matthew Blumrick is a resident of Texas.

2.3 Plaintiff Myra Arellano is a resident of Texas.

2.4 Plaintiff Jorge Estepa is a resident of Texas.

2.5 Plaintiff Daisy Hernandez is a resident of Texas.

2.6 Defendant Pegasus Fund, LLC is a for profit limited liability company that does business in the state of Texas, which has not designated an agent for service in the State of Texas but can be served upon the Texas Secretary of State, 1019 Brazos street, Austin, TX 78701, as its agent upon whom service of process may be had in this action. The Texas Secretary of State is requested to forward a copy of this Petition, along with Citation, by certified mail. Return receipt request to Defendant, Pegasus Fund, LLC at its principal palace of business

located at 3505 Veterans Memorial Hwy, Suite D, Ronkonkoma, NY 11779 or wherever it may be found.

2.7 Defendant Inserio Solutions, LLC is a for profit Texas limited liability company that does business in Texas with its principal office and principal place of business in Harris County, Texas, and is a citizen of the State of Texas, which may be served through its registered agent, CT Corporation System, 1999 Bryan St., Suite 900, Dallas, TX 75201 or wherever it may be found. All members of Inserio Solutions, LLC are citizens of the State of Texas.

### **3. Venue & Jurisdiction**

3.1 Venue is proper and maintainable in Harris County, Texas because the events or omissions giving rise to the claim, including the execution of the documents in question, occurred in Harris County, Texas. The Court has jurisdiction in this matter since Plaintiffs' damages are within its jurisdictional limits and Defendants may fairly be regarded as "at home" in Texas.

### **4. Facts & Causes of Action**

4.1 Defendant Pegasus Fund had Janice Dean sign an "Assignment & Equitable Lien Agreement" ("Assignment") on or about March 22, 2022. This was executed in Harris County, Texas. Ms. Dean's counsel never signed the Assignment.

4.2 The Assignment says Ms. Dean "has specifically requested to disburse the sum of \$50,000 to health service providers, directly, as follows: Inserio Solutions LLC \$50,000."

4.3 Pegasus Fund paid \$50,000 to some other entity, that indirectly made its way to Inserio for two artificial discs, at a cost of \$25,000 per disc. This price charged and collected is unreasonable, outrageously high, and a fraud. In fact, Inserio routinely accepted payments of substantially less for the same hardware for other patients during the same time period and in the

Harris County area, from the very same healthcare providers involved in Ms. Dean's surgery, all of which is documented.

4.4 Pegasus Fund was more than happy to write a check for \$50,000, regardless of the actual true cost of the hardware, because Pegasus Fund uses that amount, plus an "Origination Fee" of \$5,000 and an "Admin Fee" of \$500, for a total base amount of \$55,500, upon which Pegasus Fund purports to charge Ms. Dean a "Monthly User Fee" of 2.99%, and a "First Year Annualized Use Fee" of 35.88%, compounded monthly in perpetuity.

4.5 Ms. Dean underwent surgery on March 22, 2022, the same date she signed the Assignment. This made the 5-day cancellation provision impossible to comply with and null and void, rendering the entire Assignment void and unenforceable.

4.6 After the Assignment was signed, Pegasus Fund did not notify Ms. Dean that it paid any money to anyone in connection with the Assignment. Nor did Pegasus Fund provide Ms. Dean with copies of any record or evidence whatsoever that it paid any money to anyone in connection with the Assignment. Nor was Ms. Dean provided with any medical bill from anyone in connection with the Assignment or in connection with any product or service allegedly provided by Inserio Solutions LLC. Accordingly, Ms. Dean had no idea that Pegasus Fund had funded anything.

4.7 Ms. Dean subsequently properly canceled the Assignment, per its terms providing for cancellation. Thereafter, Pegasus Fund, for the first time, forwarded certain documents (but not any actual medical bill reflecting anything provided by Inserio). The documents forwarded by Pegasus Fund after cancellation include a check Pegasus Fund apparently wrote to "Cadence Surgical Solutions, LLC" for \$50,000 for the hardware in question.

4.8 However, the Assignment says Ms. Dean "has specifically requested to disburse

the sum of \$50,000 to health service providers, directly, as follows: Inserio Solutions LLC \$50,000.” The language in the Assignment referenced payment “directly” to Inserio Solutions LLC, not to Cadence Surgical Solutions, LLC or to any other entity.

4.9 Each of the other Plaintiffs have virtually identical Assignments with Pegasus Fund, each also referencing Inserio Solutions LLC, each also executed in Harris County, Texas, in the following fraudulent base amounts:

- Matthew Blumrick \$100,000
- Jorge Estepa \$25,000
- Myra Arellano \$10,000
- Daisy Hernandez \$10,000

4.10 Plaintiffs’ counsel did not sign any of the above-referenced Assignments.

4.11 Plaintiffs Blumrick, Estepa, Arellano and Hernandez were not notified by Pegasus Fund that Pegasus Fund paid any money to anyone in connection with the Assignments. Nor did Pegasus Fund provide these Plaintiffs with copies of any record or evidence whatsoever that it paid any money to anyone in connection with the Assignments. Nor were Plaintiffs provided with any medical bill from anyone in connection with the Assignments or in connection with any product or service allegedly provided by Inserio Solutions LLC.

4.12 Plaintiffs Blumrick, Estepa, Arellano and Hernandez all properly canceled their Assignments, per the terms providing for cancellation.

4.13 After cancellation of these Assignments, Pegasus Fund forwarded certain documents (but not any actual medical bill reflecting anything provided by Inserio).

4.14 The Blumrick Assignment says Blumrick “has specifically requested to disburse the sum of \$100,000 to health service providers, directly, as follows: Inserio Solutions LLC

\$100,000.” However, the checks sent by Pegasus Fund following cancellation of the Assignment reflect checks written to “Cadence Surgical Solutions,” not to Inserio Solutions LLC as called for in the Assignment. Further, the checks sent by Pegasus Fund after the cancellation are in the total amount of \$75,000, not the \$100,000 amount that Pegasus Fund used as its base amount in the Assignment.

4.15 The Estepa Assignment says Estepa “has specifically requested to disburse the sum of \$25,000 to health service providers, directly, as follows: Inserio Solutions LLC \$25,000.” However, the “wire detail” sent by Pegasus Fund following cancellation of the Assignment reflects the money was paid to “Cadence Surgical Solutions,” not to Inserio Solutions LLC as called for in the Assignment.

### **Breach of Contract**

4.16 Pegasus Fund had a contract with each of the Plaintiffs. Each of the Plaintiffs tendered performance of their obligations. Pegasus Fund failed to provide the services it was required to perform or provide the goods described in the Assignments. There is no excuse for Pegasus Fund’s failures. Pegasus Fund breached the Assignments, and the breach has caused damages to each of the Plaintiffs.

### **Fraud**

4.17 Pegasus Fund made representations to each of the Plaintiffs that were material to their decision to sign the Assignments which were false. Pegasus Fund knew that these representations were false or made each representation recklessly and without knowledge of their truth. Pegasus Fund intended for each of the Plaintiffs to rely on its misrepresentations, which each Plaintiff did, and the false representations caused injury to each of the Plaintiffs.

### **Civil Conspiracy**

4.18 Pegasus Fund and Inserio had knowledge of, agreed to, and intended a common objective or course of action, that resulted in damages to all Plaintiffs. Both Pegasus Fund and Inserio performed some act or acts to further this conspiracy against Plaintiffs. Cadence Surgical Solutions was also a party to this civil conspiracy to defraud and harm all Plaintiffs.

### **Texas Financial Code**

4.19 The Assignments were for loans of money with an absolute obligation to repay. Defendants' use of interest rates of over 35% greatly exceeds the maximum allowed by law under Tex. Fin. Code Sec. 302 and 305.

### **Deceptive Trade Practices Act**

4.20 Each of the Plaintiffs is a consumer in the transaction with Defendants. Defendants' representations to Plaintiffs were false, misleading, and deceptive. Defendants' actions violate Tex. Bus. Code Sec. 17.46(b)(5), (7), (9), (12), and (24), and have caused substantial harm to each of the Plaintiffs.

### **Declaratory Relief**

4.21 Plaintiffs request declaratory relief that all Assignments are void and/or unenforceable and unconscionable, and alternatively that all Plaintiffs properly canceled all Assignments per their terms and therefore all Assignments are unenforceable and void on their face.

## **5. Damages**

5.1 By virtue of the actions and conduct of Defendants set forth above Plaintiffs have been injured and seek liquidated damages and/or specific performance in addition to attorney fees and costs.

Plaintiffs' damages include but are not limited to:

- Direct damages;
- Incidental damages;
- Consequential damages;
- Profit disgorgement;
- Monetary loss;
- Punitive and/or exemplary damages.

5.2 Further, Plaintiffs seek economic damages under the DTPA, mental anguish, and the maximum of three times the amount of economic damages and mental anguish damages.

5.3 Plaintiffs also seek all economic damages available under the Texas Financial Code.

5.4 Plaintiffs also seek statutory fraud damages, exemplary fraud damages, mental anguish, attorneys' fees, any equitable relief this Court deems appropriate, and a declaratory judgment finding each contract void and illegal.

## **6. Request for Disclosure**

6.1 Defendants are hereby requested to timely answer *Required Disclosures* per Tex. R. Civ. P. 194.

## **7. Conclusion & Prayer**

7.1 Plaintiffs requests that Defendants be cited to appear, answer, provide the Required Disclosures, and that on final trial Plaintiffs have: (1) judgments against Defendants, for all available damages and relief in accordance with the evidence; (2) costs of court; (3) attorneys' fees; and (4) such other and further relief, general and special, to which Plaintiffs may show themselves justly entitled at law and in equity.

Respectfully submitted,

**VB Attorneys**

*/s/ Vuk S. Vujasinovic*

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