

CAUSE NO. 2015CCV-61038-3

NUECES COUNTY	§	
HOSPITAL DISTRICT,	§	IN THE COUNTY COURT
Plaintiff	§	
	§	
VS.	§	AT LAW NUMBER <u>3</u>
	§	
HABIB NIAZI and	§	
KHAIR NIAZI	§	OF NUECES COUNTY, TEXAS
Defendants	§	

**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, the Nueces County Hospital District, Plaintiff herein, complaining of Habib Niazi and Khair Niazi (collectively referred to as "Defendants"), and for its causes of action would show the Court as follows:

**I. Discovery Level**

1. Plaintiff contends to conduct discovery under Level 1 of Texas Rule of Civil Procedure 190.2. Plaintiff seeks only monetary relief aggregating \$50,000 or less, excluding costs, prejudgment interest, and attorney's fees.

**II. Parties**

2. Plaintiff, Nueces County Hospital District, located in Nueces County, Texas, has been established and created pursuant to the Texas Constitution, Article IX, Section 4, and the Texas Health and Safety Code Chapter 281, and operated in accordance with the Texas Health and Safety Code and other applicable laws of the State of Texas. Plaintiff's address is 555 North Carancahua, Suite 950, Corpus Christi, Texas 78401-0835.

3. Defendants, Habib Niazi and Khair Niazi, are individuals who can be served with citation at 209 Winding Way, Rockport, TX 78383 or in the alternative at 3909 Kettlesing Court, Corpus Christi, TX 78414.

### III. Jurisdiction and Venue

4. The court has jurisdiction over the lawsuit because the amount in controversy is within this court's jurisdictional requirements.

5. The court has jurisdiction over Defendants because they are Texas residents.

6. Venue is maintainable in Nueces County under Texas Civil Practice & Remedies Code sections 15.002(a)(1) and 15.002(a)(2), because this is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred and is the county of Defendants' residence at the time the cause of action accrued.

### IV. Facts

7. Plaintiff provided services to Defendants during calendar years 2010, 2011, 2012, and 2013. Defendants received benefits under the Nueces Aid Program, an indigent healthcare program. Those benefits were paid for by Plaintiff from September 20, 2010, through April 14, 2013.

8. Defendants completed applications for benefits on October 12, 2010, May 9, 2011, April 13, 2012, and October 9, 2012. On each application, Defendants represented to the Plaintiff that their household income and resources were within the range entitling them to benefits. By signing each application Defendants understood that a failure to report income or resources would result in Plaintiff's recovery of any benefits wrongfully obtained.

9. An investigation by Plaintiff uncovered information suggesting that Defendants had misrepresented their household resources. Defendants failed to disclose ownership of certain real estate valued at approximately \$126,037.00. Plaintiff confirmed that Defendants' actual resources were far in excess than what was reported on Defendants' applications for benefits.

10. Defendants would not have been eligible for benefits under the Nueces Aid Program had they reported their actual household resources. Defendants received \$23,470.48 in benefits from Plaintiff to which they were not entitled.

11. On May 15, 2013, Plaintiff notified the Defendants that they were administratively disqualified effective June 15, 2013. Defendants requested a hearing to dispute the disqualification and Plaintiff referred the matter to an administrative hearing officer for a disqualification hearing, which was held on June 13, 2013. The hearing officer determined that Defendants had misrepresented their resources and assets, disqualified Defendants from benefit eligibility, and required the Defendants to pay restitution to the Plaintiff for the benefits they received by a decision date June 27, 2013.

#### V. Suit on Sworn Account

12. The averments contained in paragraphs seven through eleven are incorporated herein by reference. Plaintiff provided medical services to Defendants under the Nueces Aid Program. Defendants accepted the services despite being ineligible for the program and are bound to pay Plaintiff its designated charges, which were reasonable and customary for such services.

13. Plaintiff has attached the account as Exhibit A and incorporates it by reference. The account accurately sets forth the services Plaintiff provided to Defendants, the dates of performance, and the amount of the services Plaintiff provided. The account represents a record

of the series of transactions that is similar to records Plaintiff systematically keeps in the ordinary course of business.

14. This claim is just and true, it is due, and all just and lawful offsets, payments and credits have been allowed. Plaintiff attaches an affidavit verifying these facts as Exhibit B and incorporates it by reference.

15. The original principal balance on the account was \$23,470.48. Defendants have made monthly payments of \$50 commencing in September of 2013 totaling \$1050.00. The current outstanding principal balance is \$22,420.48.

16. Attorney fees. Plaintiff is entitled to recover a reasonable and necessary attorney fees under Texas Civil Practice and Remedies Code Chapter 38 because this is a suit on a sworn account, which is listed in section 38.001(7). Plaintiff retained counsel, and has presented Plaintiff's claim to Defendants. Defendants did not tender the amount owed within 30 days of when the claim was presented. Plaintiff attaches as Exhibit C a one page demand letter date March 10, 2015, mailed on behalf of Plaintiff to Defendants.

#### VI. Quantum Meruit

17. The averments contained in paragraphs seven through sixteen are incorporated herein by reference. In the alternative, Plaintiff provided health care service to Defendants pursuant to the Nueces Aid Program, which Defendants accepted without compensating Plaintiff.

18. The services provided by Plaintiff to the Defendants are reasonably valued \$23, 470.48 less the \$1050.00 received amounting to \$22,420.48.

19. Defendants had notice that Plaintiff expected compensation for the services, in that by signing each application for benefits, Defendants understood that the withholding of resources and assets would result in the recovery of services rendered.

#### VII. Common-Law Fraud

20. The averments contained in paragraphs seven through nineteen are incorporated herein by reference. Pleading in the alternative, Defendants represented to Plaintiff that their household resources and assets qualified them to receive health benefits under the Nueces Aid Program.

21. Defendants' representations were material, in that Plaintiff relied on their representations in determining that they were eligible to receive benefits under the Nueces Aid Program.

22. Defendants' representations regarding their household resources and income were false. Defendants' actual household resources were far greater than what was reported. Defendants failed to disclose ownership of certain real estate valued at approximately \$126,037.00.

23. Defendants knew when they filled out each application for benefits that their resources were far greater than what they were reporting to Plaintiff. In the alternative, Defendants made the representation recklessly, as a positive assertion, and without knowledge of its truth.

24. Defendants represented their resource and asset level with the intent that Plaintiff would pay for their health care under the Nueces Aid Program.

25. Plaintiff relied on Defendants' representations regarding their resources and assets, and qualified Defendants for benefits under the Nueces Aid Program.

26. Plaintiff was injured by Defendants' representations regarding their resources and assets, in that Plaintiff provided Defendants with \$23,470.48 in health care benefits to which they were not entitled.

#### VIII. Conditions Precedent

27. All conditions precedent to Plaintiff's claim for relief have been performed or have occurred.

#### IX. Prayer

28. WHEREFORE, PREMISES CONSIDERED, Plaintiff prays:

- a. that citation is issued;
- b. for judgment in the amount of \$22,420.48 as the principal amount due on the account;
- c. recovery of attorney's fees as allowed by law, in an amount not less than three thousand dollars, for the prosecution of this lawsuit to a final judgment at the trial court level, with additional contingent amounts in the event of appellate proceedings;
- d. recovery of its costs; and
- e. all further relief to which Plaintiff may be entitled.

Respectfully submitted,

LAURA GARZA JIMENEZ,  
NUECES COUNTY ATTORNEY

By: /s/Alexander J. Tiffany  
ALEXANDER J. TIFFANY  
Assistant Nueces County Attorney

State Bar No. 24060727

901 Leopard St., Room 207  
Corpus Christi, TX 78401  
(361) 888-0391  
(361) 888-0577 Fax  
Email: alexander.tiffany@nuecesco.com

**ATTORNEYS FOR PLAINTIFF,  
NUECES COUNTY  
HOSPITAL DISTRICT**