

**UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

Carol Manheim, d/b/a Plantation Plaza  
Therapy Center, individually, and on  
behalf of all other persons similarly  
situated,

Plaintiff,

v.

SME Inc., USA d/b/a Superior Medical  
Equipment,

Defendant.

Case No. 2:14-cv-02856-DCN

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**Plaintiff's Motion for Class Certification**

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Carol Manheim, d/b/a Plantation Plaza Therapy Center, individually and on behalf of all other persons similarly situated, moves this Court to certify this case as a class action under Rule 23 of the Federal Rules of Civil Procedure. Plantation Plaza Therapy Center seeks certification of the following class:

All persons, natural or otherwise, throughout the United States to whom SME Inc., USA d/b/a Superior Medical Equipment sent or caused to be sent, at any time from the date that is four years before the filing of this lawsuit to the present, one or more facsimile or fax transmissions with content substantially similar to those fax transmissions contained in Exhibits A, B, or C attached to the Complaint. Excluded from the class are the judge to whom this case is assigned and any member of the judge's staff and immediate family, as well as all persons who validly request exclusion from the class.

Plantation Plaza Therapy Center further moves this Court for Plantation Plaza

Therapy Center to be approved as the class representative, and to appoint John Nichols, Clarke Newton, and Marc B. Hershovitz and their respective law firms, Bluestein, Nichols, Thompson & Delgado, LLC and Marc B. Hershovitz, P.C., as class counsel.

Plantation Plaza Therapy Center reserves the right to supplement this motion and any accompanying brief with additional materials, case citations, and arguments as may be necessary or required as a result of evidence which may be obtained through discovery.<sup>1</sup>

Attached to this motion is a demand letter along with proof of delivery (marked Exhibit A) sent to SME Inc. USA d/b/a Superior Medical Equipment along with proof of delivery. Plantation Plaza Therapy Center has never received a response to this letter and would submit to this Court that this correspondence satisfies Local Rule 7.02.

Respectfully submitted, this 16<sup>th</sup> day of July 2014.

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<sup>1</sup> Contemporaneously with this motion, Plantation Plaza Therapy Center is filing a motion requesting that this Court delay ruling on this motion to provide time for discovery and investigation. This motion is being filed now, before discovery has taken place in this case, to prevent the defendant from attempting to “buy off” the putative class representative. *See Damasco v. Clearwire Corp.*, 662 F.3d 891, 896 (7th Cir. 2011) (discussing that class-action plaintiffs can move for class certification when filing their complaint and simultaneously move the court to delay ruling on the class-certification motion to prevent defendants from attempting to “buy off” the class representative to avoid class certification).

/s/ J. Clarke Newton

J. Clarke Newton (Fed. Bar No. 11598)

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*(Pro Hac Vice application to be submitted)*

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