<<COURT\_NAME>>

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| <<PROVIDER\_SUITNAME>>,  a/a/o <<INJUREDPARTY\_NAME>>    Plaintiff,  vs.  <<INSURANCECOMPANY\_SUITNAME>>  Defendant.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/ | Case No. <<INDEXORAAA\_NUMBER>> |

**PLAINTIFF’S MOTION FOR RELIEF FROM TECHNICAL ADMISSIONS**

**COMES NOW** <<PROVIDER\_SUITNAME>>, by and through the undersigned counsel, hereby files this Motion for Relief from Technical Admissions, and in support thereof further state:

1. <<PROVIDER\_SUITNAME>>, filed the instant lawsuit against <<INSURANCECOMPANY\_SUITNAME>>, on [Date lawsuit filed].
2. Defendant served its Request for Admissions on [Date admissions served].
3. Plaintiff responded to Defendant’s Request for Admissions on [Date of response to admissions].

**MEMORANDUM OF LAW**

Florida Rule of Civil Procedure 1.370 provides guidance for the issuance of requests for admission and answering such requests. Courts liberally construe the provisions of Florida Rule of Civil Procedure 1.370 to promote decisions based on the merits of cases as opposed to basing decisions on technical admissions. Ramos v. Growing Together, Inc., 672 So.2d 103, 104 (Fla. 4th DCA 1996). In Ramos, the court noted, “The use of admissions obtained through a technicality should not form a basis to preclude adjudication of a legitimate claim.” Id. quoting, Sterling v. City of West Palm Beach, 595 So.2d 284, 285 (Fla. 4th DCA 1994). As such, the technical admissions sought by Defendant in this case should not be used as a basis for a decision on the ultimate issues.

Furthermore, subpart b of Florida Rule of Civil Procedure 1.370 permits courts to allow a party to amend answers to requests for admissions. In the event a party obtains technical admissions via an untimely response, the opposing party may move for relief from those technical admissions. Fla. R. Civ. P. 1.370. It is within the trial court's discretion to grant or deny the motion for relief. *See generally*, Thomas v. Chase Manhattan Bank, 875 So.2d 758 (Fla. 4th DCA 2004). However, when a motion for relief or other pleading asserts the technical admissions are contrary to the true facts of the case, the burden rests upon the party who obtained the technical admissions to prove it would be prejudiced by granting the motion for relief. Id. at 760, Ramos, 672 So.2d at 104. The Ramos and Thomas courts relied on the pertinent part of Florida Rule of Civil Procedure 1.370(b) which provides,

“[T]he court may permit withdrawal or amendment when the presentation of the merits of the action will be subserved by it and the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice that party in maintaining an action or defense on the merits.” (Emphasis added.)

Thus, Defendant in this action has a burden to show the court why Plaintiff’s Motion for Relief should not be granted. Specifically, Defendant has a burden to show why, and how, it would be prejudiced if this Court did not deem Defendant's Requests for Admissions admitted.

In conclusion, this Court should grant Plaintiff's Motion for Relief from Technical Admissions for two reasons. First, deeming Defendant's requests admitted, thus forming a basis for the opinion on ultimate issues in this case is against the liberal rule favoring amendment. Second, Defendant has not demonstrated to this Court how relief from the technical admissions would prejudice it in this case.

WHEREFORE, <<PROVIDER\_SUITNAME>>, request the Court enter an Order granting this motion, and grant such other further relief that is just and appropriate under the circumstances.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on February 19, 2022, a true and correct copy of the foregoing was filed and served on the Defendant through Florida Courts E-Filing Portal.

**Florida Insurance Law Group, LLC**

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