<<COURT\_NAME>>

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

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**PLAINTIFF’S MOTION TO DETERMINE THE SUFFICIENCY OF DEFENDANT’S RESPONSES TO PLAINTIFF’S FIRST REQUEST FOR ADMISSIONS AND FOR AWARD OF EXPENSES INCURRED**

**COMES NOW** Plaintiff, <<PROVIDER\_SUITNAME>>, by and through the undersigned attorney, and files the Motion to Determine the Sufficiency of Defendant’s response to Plaintiff’s Request for Admissions and for an Award of Expenses Incurred, pursuant to Florida Rules of Civil Procedure 1.370 and 1.380, and in support thereof states as follows:

1. Plaintiff served its First Request for Admissions (“RFA”) on Defendant on \_\_\_\_\_\_\_. Please see Exhibit “A” attached hereto.

2. Defendant served its response on \_\_\_\_\_. Please see Exhibit “B” attached hereto.

3. Defendant has improperly failed to sufficiently respond to RFA number(s) \_\_\_\_\_\_\_.

4. Fla.R.Civ.P. 1.370(a), which governs requests for admissions, states as follows:

**(a)** **Request for Admission**. A party may serve upon any other party a written request for the admission of the truth of any matters within the scope of rule 1.280(b) set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request…If objection is made, the reasons shall be stated. ***The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify an answer or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless that party states that that party has made reasonable inquiry and that the information known or readily obtainable by that party is insufficient to enable that party to admit or deny.*** A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not object to the request on that ground alone; the party may deny the matter or set forth reasons why the party cannot admit or deny it, subject to rule 1.380(c). ***The party who has requested the admissions may move to determine the sufficiency of the answers or objections.*** Unless the court determines that an objection is justified, it shall order that an answer be served. ***If the court determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be served.*** Instead of these orders the court may determine that final disposition of the request be made at a pretrial conference or at a designated time before trial. ***The provisions of rule 1.380(a)(4) apply to the award of expenses incurred in relation to the motion.***

5. If a party fails to provide sufficient responses to a Request for Admissions, Fla.R.Civ.P. 1.380 provides the mechanism to obtain a court order compelling proper responses and for an award of any expenses incurred in obtaining such order. The relevant portions of that rule are as follows:

**(a) Motion for Order Compelling Discovery**. Upon reasonable notice to other parties and all persons affected, a party may apply for an order compelling discovery… *See* Fla.R.Civ.P. 1.380(a)

**4) Award of Expenses of Motion**.

***If the motion is granted and after opportunity for hearing, the court shall require the party or deponent whose conduct necessitated the motion or the party or counsel advising the conduct to pay to the moving party the reasonable expenses incurred in obtaining the order that may include attorneys’ fees, unless the court finds that the movant failed to certify in the motion that a good faith effort was made to obtain the discovery without court action, that the opposition to the motion was substantially justified, or that other circumstances make an award of expenses unjust.*** If the motion is denied and after opportunity for hearing, the court shall require the moving party to pay to the party or deponent who opposed the motion the reasonable expenses incurred in opposing the motion that may include attorneys’ fees, unless the court finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust. If the motion is granted in part and denied in part, the court may apportion the reasonable expenses incurred as a result of making the motion among the parties and persons. (emphasis added).

**(c) Expenses on Failure to Admit.**

***If a party fails to admit the genuineness of any document or the truth of any matter as requested under rule 1.370 and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, the requesting party may file a motion for an order requiring the other party to pay the requesting party the reasonable expenses incurred in making that proof, which may include attorneys’ fees.*** The court shall issue such an order at the time a party requesting the admissions proves the genuineness of the document or the truth of the matter, upon motion by the requesting party, unless it finds that (1) the request was held objectionable pursuant to rule 1.370(a), (2) the admission sought was of no substantial importance, or (3) there was other good reason for the failure to admit. (emphasis added)

6. Plaintiff certifies that it has or will prior to a hearing, in good faith, confer or attempt to confer with Defendant in an effort to secure the requested information without Court action, pursuant to Fla.R.Civ.P. 1.380.

**WHEREFORE,** based on the forgoing, Plaintiff respectfully requests this Honorable Court to enter an Order finding Defendant’s responses insufficient and improper, deem the requests admitted, for an award of fees and costs incurred in the bringing of this motion, including but not limited to, attorney fees, and any other relief the Court deems just and proper 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 the Florida E-File Portal.

**The Florida Insurance Law Group, LLC**

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