<<COURT\_NAME>>

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

**PLAINTIFFS’ MOTION TO ENFORCE SETTLEMENT**

**AND IMPOSE SANCTIONS**

Plaintiff, <<PROVIDER\_SUITNAME>>, by and through the undersigned counsel, hereby files this Motion to Enforce Settlement and Impose Sanctions, and in support thereof further states:

1. On or about <<SETTLEMENT\_DATE>>, Plaintiff and Defendant amicably settled their differences and entered into a settlement agreement by which Defendant agreed to pay insurance benefits and reasonable attorney’s fees and costs.

2. Since that time Plaintiff has made several attempts to request from Defendant a settlement agreement and release that would memorialize the agreement reached between the Parties.

3. As of this date, Defendant has failed to provide a reasonable written settlement agreement and release or to tender said settlement payments.

4. Plaintiffs now pray that this Honorable Court compel Defendant and/or Defendant’s insurer to comply with the settlement agreement and immediately forward a reasonable written memorialization agreement that only encompasses the agreement reached between the Parties, as well as, the appropriate payment to the Plaintiffs.

5. Plaintiffs additionally request this Court to impose interest at the rate of 12% percent per year from the date of the settlement.

6. Furthermore Plaintiff requests this Court to impose sanctions on the Defendant for the costs and attorney’s fees expended by Plaintiff in having to bring this motion to enforce the Settlement.

7. There is no justifiable reason for Defendant to withhold payment of the settlement.

**ARGUMENT**

Florida statute provides that when a claimant and an insurer enter into a settlement of a claim, the insurer must tender payment of the settlement amount within twenty (20) days of the agreement date. Precisely, section 627.4265 of the Florida Statutes (2015) provides:

Payment of settlement.—**In any case in which a person and an insurer have agreed in writing to the settlement of a claim, the insurer shall tender payment according to the terms of the agreement no later than 20 days after such settlement is reached.** The tender of payment may be conditioned upon execution by such person of a release mutually agreeable to the insurer and the claimant, but if the payment is not tendered within 20 days, or such other date as the agreement may provide, it shall bear interest at a rate of 12 percent per year from the date of the agreement; however, if the tender of payment is conditioned upon the execution of a release, the interest shall not begin to accrue until the executed release is tendered to the insurer. (Emphasis Added)

When the settlement agreement is with a defendant but the insurer is a party to the settlement agreement Florida Statute 627.4265 applies to that agreement and defendant. In F.I.T. Aviation Inc., v. Gleason, 510 So. 2d 1217 (5th DCA 1987) the court found that, “A settlement agreement is a contract between the parties” and in a contract action a plaintiff, “is entitled to interest as a matter of law.” Id. at 1219.

The court further held that where the insurer is a party to the settlement agreement section 627.4265 applies. Appellants in F.I.T. Aviation, claimed that since they were not insurers the statute did not apply to them. The court held that by virtue of the insurer having been a party to the settlement the statute was applicable to them. Id. at 1219.

Similarly, here, as in F.I.T. Aviation, the insurer <<INSURANCECOMPANY\_SUITNAME>> was a party to the settlement offer and agreement. Furthermore, it was the insurer <<INSURANCECOMPANY\_SUITNAME>> who provided the release for Plaintiff to execute. Under the authority of F.I.T. Aviation, this settlement, the defendant and insurer are subject to section 627.4265 and are thereby liable for interest to the plaintiff for their failure to pay the settlement amount within twenty days of the tender of the release.

Moreover, as a consequence of the flagrant disregard of the terms of the settlement agreement and pertinent statute, Plaintiffs have had to incur additional costs and attorney’s fees in filing this motion. In addition to the statutorily imposed interest, Defendant should be compelled to reimburse Plaintiff for the additional expense incurred in attempting to collect the agreed to funds.

WHEREFORE, Plaintiff, respectfully request this Honorable Court to enter an order compelling Defendant, to honor its obligations under the settlement agreement, and to pay Plaintiffs sanctions for its failure to comply with the Settlement Agreement and for any other just relief as is just and proper as provided by this Court.

**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.

**The Florida Insurance Law Group, LLC**

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