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| COURT\_NAME COURT\_VENUE | **Index No.: IndexOrAAA\_Number** |
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| |  |  |  | | --- | --- | --- | | PROVIDER\_NAME  A/A/O INJUREDPARTY\_NAME | | | |  | | PLAINTIFF (S), | |  | -AGAINST- |  | | INSURANCECOMPANY\_NAME | | | |  | | DEFENDANT(S), | | AFFIDAVIT |
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STATE OF NEW YORK )

)

COUNTY OF NASSAU

I, Neil Morgenstern, M.D., hereby affirm to the best of my knowledge::

1. I am a physician duly licensed to practice in the State of New York.
2. I am the treating physician of O INJUREDPARTY\_NAME (“patient”).
3. I personally reviewed the peer review report dated **1/12/2012** by **Ayman** **Hadhoud, M.D**., who determined that the EMG/NCV testing of the upper and lower extremities performed on **11/3/2011** was not medically necessary for the patient herein.
4. In forming an opinion of medical necessity of any service including the services herein it is essential for the peer reviewer to thoroughly review all medical records pertaining to that patient prior to the service in question.
5. In this case some of the most relevant records include the reports for the follow-up office visits on **8/31/2011** and **10/2/2011** at Avenue C Medical P.C. **Exhibit B**. The patient also underwent an exam by a physiatrist, Dr. Morganstern, M.D. on **9/8/2011**. **Exhibit B**. I reviewed the records associated with these office visits. These records are maintained by the plaintiff in the usual course of business. The results of these exams partially formed the basis for the necessity of the EMG/NCV testing.
6. However, none of these records were considered by Dr. **Hadhoud** as part of the peer review. In fact, at the bottom of page 2 of the peer review, Dr. **Hadhoud** states that “the submitted records do not provide any report from Dr. Morganstern” and “the documents do not show that the Dr. Morganstern had performed any neurological examination.” This is clearly inaccurate, since Dr. Morganstern’s report dated **9/8/2011** clearly indicates that a neurological examination yielded positive findings. Without these essential points of reference it would have been absolutely impossible for Dr. Hadhoud to determine presence or lack of medical necessity for the services in question.
7. Even if we were to take at face value the medical standard for conduction EMG/NCV studies as alluded to by Dr. Hadhoud it cannot be applied in a vacuum to reject medical necessity without specific reference to the patient history as detailed in the medical evaluation reports. Dr. Hadhoud’s peer review is meaningless and fatally defective with regard to EMG/NCV services.
8. EMG/NCV test could be used to determine the conditions such as plexopathy and mononeuropathy, and the localization of any nerve injury.
9. I am of the opinion that the services in question were medically necessary.

Dated: 12/1/ 2015

By\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Neil Morgenstern, M.D.