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| COURT\_VENUE  COURT\_NAME -----------------------------------------------------------------X | **Index No.: IndexOrAAA\_Number** |
| **PROVIDER\_NAME**  A/A/O **INJUREDPARTY\_NAME**     |  |  | | --- | --- | |  | PLAINTIFF(s), |   -AGAINST-  **INSURANCECOMPANY\_NAME**,   |  |  | | --- | --- | |  | DEFENDANT(s), |   -----------------------------------------------------------------X | **PLAINTIFF AFFIDAVIT** |

STATE OF NEW YORK )

)

COUNTY OF )

I am the billing manager for PROVIDER\_NAME (hereinafter “Provider”), and I submit this affidavit in support of the attached motion. My duties as billing manager include ensuring that bills reflecting services rendered to Provider’s patients are mailed to the proper party in timely fashion, and tracking and responding to incoming payments are overdue. As the billing manager, I implemented and supervised the adherence to the mailing protocol for proof of claim and responses to verification requests protocols that were in effect on the dates that the services were rendered for the above-captioned claim. I make this affidavit based upon my personal knowledge of the facts surrounding this case, personal knowledge of the business practices of Provider, including but not limited to the mailing procedures used by Provider to submit bills and other documents to insurance companies, a review of my notes and a review of Provider’s records kept in the ordinary course of business. Also, my position as a billing manager allows me determine with certainly whether or not bills and/or responses to verification requests were sent to insurance companies, the timeliness of such mailing, and whether payments and / or verification requests were received by Provider.

Provider has a well-defined and detailed process for maintaining and sending claim-related documents to insurance companies. Copies of bills, assignment of benefits forms and other documents that are created and maintained by Provider are kept in Provider’s records as a vital part of Provider’s general business practices. Provider’s ordinary and common business practice is to send proof of claim documents and assignment of benefits forms to insurers via the United States Postal Service. The bills are generated using a computer based program and printed to a networked or attached printer. The bills are placed in an envelope that has the address of the insurer on it. The address of the insurer as stated on the bills is checked against the address on the envelope to ensure that the mail will reach its proper destination. The bills are mailed on or about the same date that they are printed. Once mailed, Provider’s general business procedure is to retain copies of the proof of mailing in order to track the bills that were mailed out. These mailing records are made and kept in the ordinary course of business, and the records are made at or about the time the bills are mailed. It is also Provider’s normal business practice to retain any delay letters or denial of claim forms issued by insurance companies in response to Provider’s claim submissions. These denials may also serve as additional proof of mailing since they often admit receipt of bills sent by Provider. In the event that Provider does not have copies of the mailing receipts or mailing logs for specific claim, Provider looks to the denial and other correspondences from the insurance companies as proof that the insurance company received the bills in a timely fashion.

After a thorough review of the files and notations pertaining to the bills attached hereto, I am certain that the mailing procedures described above were followed.

Due to a reasonable uncertainty in the first several weeks after the date of accident over which carrier would cover the instant claim and based on the information provided to our office by the assignor and/or his personal injury attorney, the bill for dates of service 03/02/2010 was originally mailed to MVAIC on 4/7/2010. See bill annexed hereto as **Exhibit A.**

Due to a reasonable uncertainty in the first several weeks after the date of accident over which carrier would cover the instant claim and based on the information provided to our office by the assignor and/or his personal injury attorney, the bill for dates of service 03/02/2010 and 04/08/2010 was originally mailed to MVAIC on 4/7/2010. See bill annexed hereto as **Exhibit A.**

Due to a reasonable uncertainty in the first several weeks after the date of accident over which carrier would cover the instant claim and based on the information provided to our office by the assignor and/or his personal injury attorney, the bill for dates of service 03/11/2010; 03/23/2010; 05/06/2010 and 05/25/2010 was originally mailed to MVAIC on 4/7/2010. See bill annexed hereto as **Exhibit A.**

Thereafter, we were informed that Fiduciary Insurance Company was the appropriate carrier and we immediately forwarded all previous bills to them. As apparent from the denials issued by Fiduciary Insurance Company all of the bills herein were received by them. Any delays that prevented the Provider from mailing the bills herein to Fiduciary Insurance Company within 45 days of the date of service were reasonable due to the circumstances surrounding the investigation of this claim in its initial stages.

BY\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Elena Evmeneko

Sworn to before me this \_\_\_\_\_ Day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 201

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Notary Public, State of New York