

CIVIL COURT OF THE CITY OF NEW YORK

COUNTY OF KINGS Index No.: {{index_number}}

{{provider_name}}

a/a/o {{assignor}},

Plaintiff(s) **COMBINED**

DISCOVERY DEMANDS

-against-

{{insurance_name}},

Defendant(s), File #: {{file_no}}

Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney duly admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions and requests contained in the following documents are not frivolous:

Verified Written Interrogatories

Notice for Discovery & Inspection

Expert Witness Disclosure

Fact (Lay) Witness Disclosure

Dated: Brooklyn, New York Kopelevich & Feldsherova, P.C.

{{created_time}} *Attorney(s) for Plaintiff(s)*

241 37th street, 4th FL, suite B439

Brooklyn, NY 11232

(718) 332-0577

By _____

__ Mikhail KOPELEVICH__ Galina FELDSHEROVA

CIVIL COURT OF THE CITY OF NEW YORK

COUNTY OF KINGS Index No.: {{index_number}}

{{provider_name}}

a/a/o {{assignor}},

Plaintiff(s), **DEMAND FOR**

VERIFIED WRITTEN

-against- **INTERROGATORIES**

{{insurance_name}},

Defendant(s), File #: {{file_no}}

PLEASE TAKE NOTICE, that pursuant to CPLR §3101*et seq.*, demand is hereby made that Defendant answer under oath the interrogatories hereinafter set forth.

DEFINITIONS AND INSTRUCTIONS

The term “bill” shall refer to a bill, Verification Form (NF-3), or any other form, however named, containing an itemized list of the services and/or supplies received by EIP;

The term “denial of claim form,” or “denial,” shall refer to denial of claim forms (NF-10), explanation of benefits, or any other similar form issued by Defendant or Defendant’s agent(s), by which Defendant purported to reject Plaintiff’s request(s) for reimbursement;

The term “medical records” shall indicate medical reports, test results, medical charts, prescriptions, referrals, and any other document, however named, created by any healthcare provider in the course, and for purposes of the EIP’s diagnosis and/or treatment;

The term “each EBT” shall refer to an EBT conducted pursuant to a notice for EBT, regardless of how many individuals are scheduled to be deposed in the notice

These interrogatories are deemed continuing to the fullest extent permissible and require that you provide all information known to you up to the date of your response. If you subsequently acquire any further information called for in response to any of these interrogatories, you are to furnish it promptly in writing and under oath to the undersigned counsel.

If any interrogatory is not answered because of a claim or privilege or immunity, state with particularity the nature of, and complete factual and legal basis for, such claim.

If any interrogatory is claimed to be otherwise objectionable, state with particularity the nature and complete factual and legal basis for the objection.

INTERROGATORIES

State the name, relationship with Defendant, business address of the person answering these interrogatories, and whether this person is authorized to answer on Defendant’s behalf

State the name of each person employed by Defendant who processed Plaintiff's bills, and a brief description of the processing conducted by each

State when and in what manner Defendant first received notice of the motor vehicle accident at issue, whether written or oral. If written, provide a copy of the first notice received. If oral, provide a copy of the record made by Defendant in response to such notice.

State whether, upon first receiving notice of the motor vehicle accident at issue, whether written or oral, Defendant issued any correspondence to the EIP or any other person, and whether such correspondence included any forms promulgated by the Department of Financial Services. If so, provide a copy thereof and state:

When it was mailed

Whether Defendant received a response to such correspondence, when such response was received, if applicable, and provide a copy of the response.

State whether Defendant received a Motor Vehicle Accident Report (MV104) describing EIP's accident. If so, provide a copy thereof and state:

When it was received

Whether Defendant questioned the validity and/or genuineness of such document —and, if so, which steps were undertaken to obtain credible and reliable confirmation thereof

State whether Defendant received a Police Accident Report describing EIP's accident. If so, provide a copy thereof and state:

When it was received

Whether Defendant questioned the validity and/or genuineness of such document —and, if so, which steps were undertaken to obtain credible and reliable confirmation thereof

State whether Defendant received EIP's Application for Benefits Form (NF-2) and, if so, state when and provide a copy thereof

State whether Defendant received an Assignment of Benefits Form (AOB) signed by EIP or EIP's representative in favor of Plaintiff and, if so, state when and provide a copy thereof

State whether Defendant received one or more bills from Plaintiff and, if so, provide a copy thereof

State whether Defendant received medical records from Plaintiff and, if so, provide a copy thereof

State whether Defendant received one or more bills, or AOBs, or NF-2s, or medical records, from healthcare providers other than Plaintiff, for treatment rendered to EIP for the same accident underlying these proceedings. If so, provide a copy of each such document

State whether Defendant or its agent requested additional verification of any of Plaintiff's bills. If so, provide a copy of each verification request and state when it was mailed

State whether Defendant requested EIP and/or Plaintiff to submit a "written statement of facts" or submit to an "examination under oath" (EUO). If so:

State when and how such requests were created and mailed

Provide a copy of such request and proofs of mailing

Provide a copy of any correspondence exchanged in relation to such request prior to the submission to Defendant of any such statement or EUO

State whether such statement or EUO was provided to Defendant and, if so, provide a copy thereof

State whether Defendant issued one or more denials to Plaintiff. If so, provide a copy of each denial and state when it was mailed

State whether Defendant or its agent issued any document or correspondence to Plaintiff or EIP, other than a denial or a verification request. If so, provide a copy of each such correspondence and proof of mailing and state when it was mailed

State whether Defendant received EIP's household affidavit. If so, provide a copy thereof and state when it was received

State whether Defendant received a notice of intent to make a claim with

{{insurance_name}}

. If so, provide a copy thereof and state when it was received

State whether Defendant received EIP's proof of residency. If so, provide a copy thereof and state when it was received

State whether Defendant received verifiable confirmation of insurance or lack of insurance from EIP. If so, provide a copy of such confirmation and state when it was received

State whether Defendant issued one or more letters indicating that EIP is not a "covered person" due to lack of compliance with the requirements of Article 52 of the Insurance Law. If so, provide a copy of each such letter and state when it was mailed

State whether Defendant issued one or more denials, or refused to pay any of Plaintiff's bills, or otherwise intends to raise a defense in this action based, in whole or in part, upon one or more of the following defenses. If so, disclose the evidence upon which Defendant intends to rely to prove it:

Lack of coverage on the basis that EIP is not a "qualified person" pursuant to Art. 52 of the Insurance Law. If so, identify the section or sections specifically applicable to this dispute;

Alleged exhaustion of No-Fault's benefits;

EIP's alleged failure to submit timely notice of claim;

Plaintiff's alleged failure to submit timely proof of claim;

The allegation that Plaintiff's bills applied the wrong fee schedule(s), or exceeded the applicable fee schedule(s), or did not otherwise comply with fee schedule(s);

The allegation that EIP was receiving "concurrent care";

Lack of medical necessity based on one or more "peer reviews." If so, also state:

To the extent not already provided in response to the within Notice for Discovery and Inspection, the peer reviewer's name, business address, specialty, accreditations, professional memberships, and any other material information necessary to demonstrate that the peer reviewer was qualified to peer review Plaintiff's bills

Setting forth the material dates and details of each occurrence, whether:

The peer reviewer's license and/or registration has ever been revoked or suspended

The peer reviewer has ever been subject to disciplinary proceedings —and, if so, the outcome thereof

Whether the peer reviewer was an employee of Defendant or an independent contractor. If independent contractor, also state:

The name of the entity, if any, employing the peer reviewer

The name, business address, and relationship with Defendant of the person or entity who paid the peer reviewer's fee

Whether Defendant gave the peer reviewer, directly or through any intermediary, orally or in writing, any guideline, directive, instruction, or indication on how to perform the peer review

Whether the peer reviewer used any software to create the report(s) supporting Defendant's denial(s) and, if so, the name of that software

Whether the peer reviewer personally signed the peer review report(s). If not, provide specific details as to how the peer reviewer's signature came to be affixed to the report(s)

Whether Defendant has, in the previous six years, used the peer reviewer's services with respect to bill(s) other than those herein in dispute. If so, also state:

How many peer reviews were performed by the peer reviewer in such period

In how many cases the peer reviewer found that the services and or supplies being peer reviewed were not medically necessary

Whether the peer reviewer was performing peer reviews on behalf of other insurance carriers and, if so, how many per year

On which basis or bases Defendant chose to retain the peer reviewer to perform the specific peer review

In details, the criteria, procedures, opinions, and any other determinative factors, including name, business address and relationship to Defendant of the person establishing them, considered by Defendant in selecting which documentation and information should be forwarded to the peer reviewer —and which should not— to perform the peer review

In details, a description of how the documentation and information considered for the peer review was forwarded by Defendant to the peer reviewer

In details, the time, circumstances, witnesses, and content of every communication between Defendant and the peer reviewer with respect to the peer review

Why Defendant chose a documentary peer review rather than EIP's physical examination

In details, how and when the peer review was drafted and generated, and whether peer reviewer used a third-party in the process

In details, how and when the peer reviewer applies his/her signature to the document(s)

Lack of medical necessity based on one or more "independent medical examinations." If so, also state:

To the extent not already provided in response to the within Notice for Discovery and Inspection, the IME Dr.'s name, business address, specialty, accreditations, professional memberships, and any other material information necessary to demonstrate that the IME Dr. was qualified to render an opinion about the medical necessity of the services and/or supplies provided by Plaintiff

Setting forth the material dates and details of each occurrence, whether:

The IME Dr.'s license and/or registration has ever been revoked or suspended

The IME Dr. has ever been subject to disciplinary proceedings —and, if so, the outcome thereof

Whether the IME Dr. was an employee of Defendant or an independent contractor. If independent contractor, also state:

The name of the entity, if any, employing the IME Dr.

The name, business address, and relationship with Defendant of the person or entity who paid the IME Dr.'s fee

Whether Defendant gave the IME Dr., directly or through any intermediary, orally or in writing, any guideline, directive, instruction, or indication on how to perform the IME

Whether the IME Dr. used any software to create the report(s) supporting Defendant's denial(s) and, if so, the name of that software

Whether the IME Dr. personally signed the IME report(s). If not, provide specific details as to how the IME Dr.'s signature came to be affixed to the report(s)

Whether Defendant has, in the previous six years, used the IME Dr.'s services with respect to bill(s) other than those herein in dispute. If so, also state:

How many IMEs were performed by the IME Dr. in such period

In how many cases the IME Dr. found that the patient being examined was in need of further treatment and/or supplies

Whether the IME Dr. was performing IMEs on behalf of other insurance carriers and, if so, how many per year

On which basis or bases Defendant chose to retain the IME Dr. to perform the specific IME

Whether the IME Dr. examined EIP pursuant to a doctor-patient relationship, a detailed description of the exam and how long it lasted

In details, the criteria, procedures, opinions, and any other determinative factors, including name, business address and relationship to Defendant of the person establishing them, considered by Defendant in selecting which documentation and information should be forwarded to the IME Dr. —and which should not— prior to the performance of the IME

In details, a description of how the documentation and information considered in preparation for the IME was forwarded by Defendant to the IME Dr.

In details, the time, circumstances, witnesses, and content of every communication between Defendant and the IME Dr. with respect to the IME

In details, how and when the IME report was drafted and generated, and whether IME Dr. used a third-party in the process;

In details, how and when the IME Dr. applies his/her signature to the IME report

EIP's failure to attend one or more "independent medical examinations."; If so, in detail describe all communications (oral and written) of Defendant and the IME vendor with the EIP or EIP's representative;

The failure to attend one or more "examinations under oath" (EUO) by EIP, EIP's assignees, or any other person or entity; If so, in detail describe the time, circumstances, witnesses and content of every

communications (oral and written) of Defendant and the attorney(s) assigned to conduct the EUO with the EIP, EIP's representative, EIP's assignee(s) and/or assignee's representative;

State in detail the reason and basis for the EUO request(s), and provide copies of all documents relied upon

State in detail, the name and address of person responsible for conducting the EUO; whether a court reporter was ordered for the EUO dates; how long the representative conducting the EUO waited for EIP, EIP's representative, EIP's assignee(s) and/or assignee's representative at the location of the EUO; and how Defendant's representative was ready to proceed with the EUO;

State in detail whether the EUO(s) were rescheduled, whether there were any requests for rescheduling, and the circumstances of all the communications

The results of Defendant's investigation(s), If so, provide a copy of the entire investigation file

The allegation that material misrepresentations were made by EIP and/or Plaintiff and/or any other person involved in the accident underlying the within dispute;

The allegation that the accident underlying the instant dispute was an "intentional act";

The allegation that the accident underlying the instant dispute did not "occur as claimed";

The allegation that EIP's injuries "did not arise out of a covered accident";

The allegation that EIP and/or Plaintiff and/or any other person involved in the accident underlying the within dispute failed to cooperate with Defendant during the course of Defendant's investigation of the claims arising out of such accident;

The allegation that Plaintiff failed to comply with any licensing requirement and/or any laws of New York State, New York City and/or governmental agency.

State whether Defendant has issued or received any settlement, release, discontinuance, partial or full payment, check, draft, partial or full satisfaction, concerning any bill relating to services provided to EIP, whether or not submitted by Plaintiff. If so, provide a copy of each such document, however named by the party or parties executing or issuing it.

State whether Defendant intends to raise any defense not mentioned above, whether procedural or substantive. If so, state in detail the nature and details of such defense and disclose the evidence upon which Defendant intends to rely to prove it

State whether Defendant's attorneys charge legal fees to attend EBTs and, if so state:

Whether each appearance is individually and separately billed

The precise amount of legal fees charged for each appearance at an EBT

Dated: Brooklyn, New York Kopelevich & Feldsherova, P.C.

{{created_time}} Attorney(s) for Plaintiff(s)

241 37th street, 4th FL, suite B439

Brooklyn, NY 11232

(718) 332-0577

CIVIL COURT OF THE CITY OF NEW YORK

COUNTY OF KINGS Index No.: {{index_number}}

{{provider_name}}

a/a/o {{assignor}},

Plaintiff(s), **DEMAND FOR**

DISCOVERY & INSPECTION

-against-

{{insurance_name}},

Defendant(s), File #: {{file_no}}

PLEASE TAKE NOTICE THAT, pursuant to CPLR 3120 and the applicable rules of this Court, demand is hereby made that within twenty days hereof Defendant provide Plaintiff, at the undersigned's address, true and genuine copies of the documents listed below insofar as they relate to the accident(s) referred to in the Complaint in the instant action.

DEFINITIONS AND INSTRUCTIONS

The word "bill" shall refer to a bill, Verification Form (NF-3), or any other form, however named, containing an itemized list of the services and/or supplies that EIP (eligible injured person) received from Plaintiff.

The words "denial of claim form," or "denial," shall refer to denial of claim forms (NF-10), explanation of benefits, or any other similar form issued by Defendant or Defendant's agent(s), by which Defendant purported to reject Plaintiff's request(s) for reimbursement

The words "medical records" shall indicate medical reports, test results, medical charts, prescriptions, referrals, and any other document, however named, created by any healthcare provider in the course and for purposes of the EIP's diagnosis and/or treatment.

Authorizations complying with HIPAA and all applicable State privacy requirements, properly executed by or on behalf of EIP, received by Defendant

If any other action or arbitration has been filed by or on behalf of Plaintiff or EIP with respect to the accident underlying the within dispute, a copy of the pleadings in such court action(s) or, if arbitration was commenced, a copy of the arbitration request form(s) (AR-1) and of any letter scheduling conciliation filings and deadlines. Also provide copy of any Decision, Order, Stipulation, Arbitration Award, Consent Agreement, and/or any other determination, however named and whether final or non-final, issued in the court action or arbitration proceedings

Any correspondence issued by Defendant to EIP containing any "NF" form promulgated by the Department of Financial Services.

Any document(s) which provided or recorded Defendant's first notice of the subject motor vehicle accident, and any correspondence or document(s) issued by Defendant to EIP or any other person in response to such first notice.

All bills and medical records in Defendant's possession relating to each individual, including the EIP, who was injured in the underlying accident, whether or not submitted by Plaintiff

Any verification request, delay letter, qualification letter, or other correspondence sent to EIP, including but not limited to any request for: household affidavit, notice of intent to make a claim, proof of residency, and written confirmation of insurance or lack of insurance

Documents provided to Defendant in response to any verification request issued by Defendant

A copy of any statement provided by EIP or Plaintiff to Defendant, whether or not under oath

A transcript of any Examination Under Oath ("EUO") or deposition held by Defendant while processing EIP's claim

Copy of any letter of representation for EIP and all correspondence sent and received from EIP's attorney.

Copies of phone logs and file notes maintained by Defendant, Defendant's attorney(s) that scheduled an EUO(s), and/or Independent Medical Examination ("IME") vendor that scheduled IME(s)

Copies of sign-in sheets for the date(s) the IME(s) and/or EUO(s) were scheduled at the applicable facility

Copy of Attorney's calendar of appearance(s) who was scheduled to conduct EUO(s) for the date(s) of the EUO(s)

Copy of peer review reports, IME reports, medical records, and medical literature relied on by Defendant to establish its defense in this action

Copies of all proofs of mailing, mailing logs, certified mail receipts, and/or return receipt cards for all correspondences issued by Defendant, Defendant's attorney, and any vendor associated with this action

Copy of any letter, memorandum, electronic correspondence, and/or any other written evidence in Defendant's possession, proving Defendant's compliance with 11 NYCRR 65-3.2(g) (obligation to ensure that any person or entity handling claims on Defendant's behalf be "thoroughly conversant" with the No-Fault Regulations)

Any document and correspondence that is not covered by the above requests but that Defendant plans on using to establish its defenses in relation to the within dispute

A full copy of Defendant's claim file(s) relating to this matter, including any Special Investigator Unit's file and any investigator's report.

PLEASE TAKE FURTHER NOTICE that this information must be supplied at such time as to constitute appropriate notice thereof. Pursuant to CPLR 3101(h), your responses to these questions MUST be amended or supplemented when the circumstances are such that a failure to do so would be materially misleading.

Dated: Brooklyn, New York Kopelevich & Feldsherova, P.C.

{{created_time}} Attorney(s) for Plaintiff(s)

241 37th street, 4th FL, suite B439

Brooklyn, NY 11232

(718) 332-0577

CIVIL COURT OF THE CITY OF NEW YORK

COUNTY OF KINGS Index No.: {{index_number}}

{{provider_name}}

a/a/o {{assignor}},

Plaintiff(s), **DEMAND FOR**

EXPERT WITNESS

-against- **DISCLOSURE**

{{insurance_name}},

Defendant(s), File #: {{file_no}}

PLEASE TAKE NOTICE, that pursuant to CPLR §3101(d)(1), demand is hereby made that Defendant provide under oath the following information about each and every person to be called at trial as an expert witness:

Name and address

Qualifications, including present occupation and field of specialization

Number of years engaged in the expert's specialty

Membership in professional organizations or societies, however denominated or identified

Detailed description of the expected testimony, including but not limited to facts, opinions, the grounds and documents upon which the expert will rely, and any other element material to the expert's opinion

Copies of the peer review and/or IME reports that will be submitted at trial and/or expert witness will testify about at trial.

Copies of the documents that were reviewed by the expert(s) as listed in the peer review and/or IME reports that will be submitted at trial and/or expert witness will testify about at trial.

Copies of all professional literature relied upon by the expert to provide the testimony.

The expected compensation for the expert's trial testimony.

A detailed schedule of previous appearances in court as an expert for Defendant

A list of all matters in which Defendant asked for the expert's opinion out of court, and the corresponding fees paid to the expert for such professional opinion

PLEASE TAKE FURTHER NOTICE, that this demand is an ongoing demand and that this information must be supplied at such time as to constitute appropriate notice thereof. Pursuant to CPLR 3101(h), your responses to these questions MUST be amended or supplemented when the circumstances are such that a failure to do so would be materially misleading.

Dated: Brooklyn, New York Kopelevich & Feldsherova, P.C.

{{created_time}} *Attorney(s) for Plaintiff(s)*

241 37th street, 4th FL, suite B439

Brooklyn, NY 11232

(718) 332-0577

CIVIL COURT OF THE CITY OF NEW YORK

COUNTY OF KINGS Index No.: {{index_number}}

{{provider_name}}

a/a/o {{assignor}},

Plaintiff(s), **DEMAND FOR**

FACT (LAY) WITNESS

-against- **DISCLOSURE**

{{insurance_name}},

Defendant(s), File #: {{file_no}}

PLEASE TAKE NOTICE, that pursuant to CPLR §3101 *et seq.*, demand is hereby made that Defendant provide under oath the information hereinafter set forth, with respect to each and every person to be called at trial as a fact (lay) witness:

Name and address.

Nature of the business/employment relationship with Defendant.

Expected subject matter of the testimony.

Whether the fact witness is, has been, or will be paid any fee to testify at trial.

Whether the fact witness is, has been, or will be subpoenaed to testify at trial.

Whether the fact witness has previously testified at other trials on Defendant's behalf —and if so, also provide date, details, and circumstances of every such prior testimony.

PLEASE TAKE FURTHER NOTICE, that this demand is ongoing and that this information must be supplied at such time as to constitute appropriate notice thereof. Pursuant to CPLR 3101(h), your responses to these questions **MUST** be amended or supplemented when the circumstances are such that a failure to do so would be materially misleading.

Dated: Brooklyn, New York Kopelevich & Feldsherova, P.C.

{{created_time}} *Attorney(s) for Plaintiff(s)*

241 37th street, 4th FL, suite B439

Brooklyn, NY 11232

(718) 332-0577

COUNTY OF KINGS Index No.: {{index_number}}

Defendant(s)

File #: { { file_no } }

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{{defence_firm_city}}, {{defence_firm_state}} {{defence_firm_zip}}
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