STATE OF NEW YORK

SUPREME COURT COUNTY OF [Insert County]

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[Insert Caption]

Plaintiff

vs.

Defendant

PLAINTIFF'S COMBINED DISCOVERY DEMANDS AND DEMAND FOR A VERIFIED BILL OF PARTICULARS TO [INSERT DEFENDANT][*]

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TO: Defendant [Insert Name of Defendant]

## NOTICE TO PRODUCE

**PLEASE TAKE NOTICE**, that the undersigned demands that you produce, at [Insert Time] on [Insert Date], at the offices of [Name of Law Firm], [Address of Law Firm], for copying, testing or photographing by the plaintiff, or someone acting on the plaintiff's behalf, the following original documents or items that are in the possession, custody or control of said defendant:

1. Any films, photographs, video tapes or audio tapes, including transcripts or memoranda thereof, involving a person referred to in paragraph one of subdivision (a) of CPLR Section 3101. There shall be disclosure of all portions of such material, including out-takes, rather than just those portions which a party intends to use. This demand shall not apply to materials compiled for law enforcement purposes, which are exempt from disclosure under section eighty-seven of the Public Officers Law. This is a continuing demand. Should any such material come into your possession, custody or control, or into the possession, custody or control of any party you represent in this action, after the date of this demand, demand is hereby made that you produce such material at the undersigned's office for inspection and copying on the aforesaid date or twenty (20) days after you, or said party, obtain possession, custody or control of same, whichever is later. (*See Tai Tran v. New Rochelle Hosp. Med. Ctr.*, 99 N.Y.2d 383, 756 N.Y.S.2d 509 (2003)). Should any such material come into your possession, custody or control, or into the possession, custody or control of any party you represent in this action, after the date of this demand and less than twenty (20) days before the scheduled deposition of any

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[*] The practitioner should select those requests applicable to her case. It is unlikely that all of them would apply in any particular case.

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party or witness in this action, or less than twenty (20) days before the trial date of this action is scheduled to commence, demand is hereby made that you immediately notify the attorneys making this demand, by a means and method that is calculated to provide actual and meaningful notice before the date of the scheduled deposition or trial, of the existence of all such material.

2. Any written report of the incident that is the subject of this action prepared in the regular course of business operations or practices of any person, firm, corporation, association or other public or private entity, unless prepared by a police or peace officer for a criminal investigation or prosecution and disclosure would interfere with a criminal investigation or prosecution.

3. Any statements of plaintiff, or plaintiff's agents, servants, or employees, now in your possession, custody or control, or in the possession, custody or control of any party you represent in this action, whether signed or unsigned, written, transcribed or otherwise recorded and whether obtained by investigation made after the date of the occurrence and regardless of how made.

4. Any films, photographs or video tapes depicting the plaintiff.

5. Any films, photographs or video tapes depicting the scene of the events or the individuals or instrumentality that are the subject of this action.

**PLEASE TAKE FURTHER NOTICE:**

• IF THE ORIGINAL OF ANY OF THE PRECEDING ITEMS WAS AT ONE TIME IN YOUR POSSESSION, CUSTODY, OR CONTROL BUT IS NO LONGER IN YOUR POSSESSION, CUSTODY OR CONTROL, PRODUCE ALL COPIES OF SAME, TOGETHER WITH A STATEMENT SETTING FORTH THE DATE THAT THE ORIGINAL OF SAID ITEM WAS LAST IN YOUR POSSESSION, CUSTODY OR CONTROL AND THE NAME OF THE PERSON OR ENTITY TO WHOM YOU TRANSFERRED POSSESSION, CUSTODY OR CONTROL ON THAT DATE.

• IF THE ORIGINAL OR ANY OF THE PRECEDING ITEMS WAS NEVER IN YOUR POSSESSION, CUSTODY, OR CONTROL BUT A COPY WAS IN YOUR POSSESSION, CUSTODY OR CONTROL, PRODUCE ALL COPIES OF SAME.

• IF THE ORIGINAL OF ANY OF THE PRECEDING ITEM WAS NEVER IN YOUR POSSESSION, CUSTODY, OR CONTROL BUT A COPY WAS IN YOUR POSSESSION, CUSTODY OR CONTROL, BUT THAT COPY IS NO LONGER IN YOUR POSSESSION, CUSTODY OR CONTROL, PRODUCE A STATEMENT SETTING FORTH THE DATE THAT THE COPY OF SAID ITEM WAS LAST IN YOUR POSSESSION, CUSTODY OR CONTROL AND THE NAME OF THE PERSON OR ENTITY TO WHOM YOU TRANSFERRED POSSESSION, CUSTODY OR CONTROL ON THAT DATE.

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## DEMAND FOR EXPERT WITNESSES

**PLEASE TAKE FURTHER NOTICE**, that pursuant to Article 31, subdivision (d) of Section 3101 of the Civil Practice Law and Rules, the undersigned hereby demand that, at the date and time stated above, you:

1) Disclose in reasonable detail the qualifications of each expert witness whom you expect to call at trial.

2) Disclose in reasonable detail the subject matter on which each expert is expected to testify.

3) Disclose in reasonable detail the substance of the facts and opinion on which each expert is expected to testify.

4) Disclose in reasonable detail a summary of the grounds for each expert's opinions.

## DEMAND FOR CONTENTS OF INSURANCE AGREEMENT

**PLEASE TAKE FURTHER NOTICE** that, pursuant to Section 3101(f) of the CPLR, at the date and time stated above, you are hereby required to disclose the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments made to satisfy the judgment by delivering to the offices of the undersigned, at the date and time stated above, a complete and accurate copy of all such insurance agreements, including all declaration pages, coverage sheets or face sheets pertaining thereto and all forms and endorsements that are a part of the insurance agreement. This demand is not limited to primary insurance agreements and specifically includes, but is not limited to, all insuring agreements in excess of, or which supplement, the primary insurance agreement.

## DEMAND FOR WITNESSES

**PLEASE TAKE FURTHER NOTICE**, that the undersigned demands that, at the date and time stated above, you:

1) Identify the names and addresses of all persons who:

   a) were witnesses to the occurrences(s) or to the events surrounding the occurrence(s) that is the subject of this action; or

   b) were witnesses to the condition(s) that is the subject of this action; or

   c) were witnesses to plaintiff's injuries; or

   d) have knowledge of facts or information relevant to this action;

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e) [IF MEDICAL MALPRACTICE CASE] the names and addresses of all nurses and physicians that treated or came into contact with the infant plaintiff during [Insert Dates of Treatments] whether or not obtained by investigation made after the date of the occurrence and regardless of how you learned of the identity of such witnesses.

## DEMAND FOR A VERIFIED BILL OF PARTICULARS

**PLEASE TAKE FURTHER NOTICE**, that the undersigned demands that each defendant serve upon them within thirty (30) days, a verified Bill of Particulars of the claims alleged in said defendant's Answer, setting forth specifically and in detail the answers to the following inquiries:

1. As to the [Insert Number] Affirmative Defense, particularize and identify the specific culpable conduct and want of care on the part of the plaintiff, or by someone over whom the answering defendants had no control;

2. As to the [Insert Number] Affirmative Defense, particularize how the infant plaintiff assumed the risk of the activity in question, his injuries, and/or any item in any manner relating to his care and treatment.

3. [IF MEDICAL MALPRACTICE CASE] As to the [Insert Number] Affirmative Defense, particularize how and in what manner the infant plaintiff and/or plaintiffs accepted and assumed any risks relating to his care and treatment, and how and in what manner the plaintiff and/or plaintiffs knew of or were otherwise aware of the inherent hazards of the treatment rendered as alleged in the [Insert Number] Affirmative Defense.

4. As to the [Insert Number] Affirmative Defense, particularize and identify the collateral sources rendered and the amount of collateral offset that is claimed.

5. As to the [Insert Number] Affirmative Defense, particularize and identify the specific defenses that are alleged as the basis for the affirmative defense, and the factual basis for asserting them against the plaintiff in this case.

6. As to the [Insert Number] Affirmative Defense, set forth the factual basis that Plaintiff's causes of action are barred by the applicable statute of limitations.

7. As to the [Insert Number] Affirmative Defense, set forth the factual basis on which it is claimed that Plaintiff has not acquired personal service jurisdiction over the requesting defendant.

8. As to the [Insert Number] Affirmative Defense, set forth the factual basis that Plaintiff has not acquired subject matter jurisdiction over the requesting defendant.

9. As to the [Insert Number] Affirmative Defense, set forth the factual basis for the claim that Plaintiff's verdict or judgment, and/or Defendant's responsibility for such verdict or judgment can be reduced in whole or in part by the application of Article 16 of the CPLR.

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10. As to the [Insert Number] Affirmative Defense, set forth the factual basis that the requesting Defendant was not a substantial factor in Plaintiff's injuries, damages and loss as alleged in the Complaint.

11. As to the [Insert Number] Affirmative Defense, set forth the factual basis that Plaintiff failed to mitigate damages.

Dated: [Insert Date]

_____

[Name of Attorney]
[Name of Law Firm]
Attorneys for Plaintiff
[Address]
[Telephone Number]

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