

24-SAH-297 DTF-A

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
MARLON GONZALEZ BARRERA,

Index No.: 151146/2024

Plaintiff,

-against-

**VERIFIED ANSWER**

ANTHONY ODIE,

Defendants.

-----X

Defendants, ANTHONY ODIE, by their attorneys, McCABE, COLLINS, McGEOUGH, FOWLER, LEVINE & NOGAN, LLP, answering the Verified Complaint herein, upon information and belief, allege:

FIRST: Defendants deny the allegations set forth in paragraphs "11, 12, 13, 14 and 15" and each and every part thereof.

SECOND: Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in paragraphs "1 and 18" and each and every part thereof.

THIRD: Defendants deny the allegations set forth in paragraphs "16, 17 and 20" and respectfully refer all questions of law to the determination of the trial court.

FOURTH: Defendants deny having knowledge or information sufficient to form a belief as to the allegations set forth in paragraphs "5, 6, 7, 8, 9 and 19" and respectfully refer all questions of law to the determination of the trial court.

**AS AND FOR A FIRST DEFENSE**

FIFTH: The plaintiff did not sustain serious injuries as defined by Section 5102 of the Insurance Law of the State of New York and plaintiff's exclusive remedy, therefore, is confined and

limited to the benefits and provisions of Article 51 of the Insurance Law of the State of New York.

**AS AND FOR A SECOND DEFENSE**

SIXTH: The plaintiff's sole and exclusive remedy is confined and limited to benefits and provisions of Article 51 of the Insurance Law of the State of New York.

**AS AND FOR A THIRD DEFENSE**

SEVENTH: The plaintiff's causes of action are barred by Article 51, Section 5104 of the Insurance Law of the State of New York.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

EIGHTH: The plaintiff was guilty of culpable conduct, including contributory negligence and/or assumption of risk, and should an award be made to the plaintiff, same should be diminished in the proportion which the culpable conduct and/or contributory negligence and/or assumption of risk attributable to the plaintiff bears to the culpable conduct and/or negligence which caused the damages.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

NINTH: That if the plaintiff sustained injuries at the time and place as alleged in the Complaint, said injuries, if any, were caused and/or exacerbated by the plaintiff's failure to use safety devices and wear a protective helmet and defendants will seek exemption from and/or mitigation of damages at the time of trial.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

TENTH: In the event that plaintiff recovers judgment against this answering defendant and it is determined that plaintiff's damages were caused in whole or in part by two or more joint tortfeasors, then defendant's liability herein for non-economic loss may not exceed its equitable share of said damages in accordance with its relative culpability, as provided by Section 1601 of the

CPLR.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

ELEVENTH: This Court lacks jurisdiction of the person of the defendant due to failure to properly serve him.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

TWELFTH: The Complaint, as drawn, fails to state a cause of action.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

THIRTEENTH: Plaintiff's recovery, if any, shall be reduced by the amount of any collateral payments received, in accordance with CPLR Section 4545.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

FOURTEENTH: That if, at the time of trial, any of the issues herein have finally been determined against the plaintiff by a tribunal, forum or Court, all of competent jurisdiction, then, in that event, the plaintiff will be estopped from relitigating said issues.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

FIFTEENTH: Plaintiff failed to take all reasonable measures to reduce, mitigate and/or minimize the damages alleged.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

SIXTEENTH: Plaintiff did assume the risk of any and all injuries/damages he alleges to have incurred.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE**

SEVENTEENTH: The undersigned defendant(s) action(s) in connection with the matters alleged in the Complaint were at all times reasonable under the circumstances and/or the product of an emergency situation that was due to environmental, mechanical, human or animal causes to which

the emergency doctrine applies.

**AS A FOR A ELEVENTH AFFIRMATIVE DEFENSE**

EIGHTEENTH: These defendants are entitled to a set-off if any tortfeasor has or will settle with plaintiff pursuant to General Obligations Law §15-108.

WHEREFORE, defendant ANTHONY ODIE, demands judgment dismissing the Complaint herein, together with the costs, disbursements and expenses of this action.

Dated: April 26, 2024  
Jericho, New York

Yours, etc.

McCABE, COLLINS, McGEOUGH, FOWLER,  
LEVINE & NOGAN, LLP

By: 

\_\_\_\_\_  
DAVID T. FOWLER

Attorneys for Defendants  
30 Jericho Executive Plaza - Suite 400 C  
Jericho, New York 11753  
516-741-6266  
File No.: 24SAH277-DTF-A

TO: FERRO, KUBA, MANGANO, P.C.  
Attorneys for Plaintiff  
825 Veterens Highway  
Hauppauge, New York 11788  
(631) 581-9494  
File No.: P17522-23

**ATTORNEY VERIFICATION**

STATE OF NEW YORK )  
  ) ss.:  
COUNTY OF NASSAU )

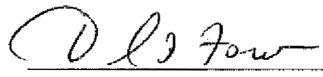
DAVID T. FOWLER, an attorney admitted to practice in the Courts of the State of New York, shows:

That affirmant is the attorney for the defendant in the within action; that affirmant has read the foregoing VERIFIED ANSWER and knows the contents thereof; that the same is true to the affirmant's knowledge, except as to the matters therein stated to be alleged on information and belief; and that as to these matters, affirmant believes it to be true.

The grounds of belief as to all matters not stated upon deponent's knowledge are documents, correspondence and records maintained in your deponent's files and/or conferences had with the defendant.

The undersigned affirms that the foregoing statements are true under the penalties of perjury.

Dated: April 26, 2024  
Jericho, New York

  
\_\_\_\_\_  
DAVID T. FOWLER

24-SAH-297 DTF-A

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
MARLON GONZALEZ BARRERA,

Plaintiff,

-against-

ANTHONY ODIE,

Defendants.  
-----X

Index: 151146/2024

**DEMAND FOR  
VERIFIED BILL  
OF PARTICULARS**

PLEASE TAKE NOTICE that in accordance with Section 3041, Rules 3042, 3043 and 3044 of the CPLR you are hereby required to serve upon the undersigned a Verified Bill of Particulars pursuant to the following demand within thirty (30) days:

1. State the date and approximate time of day of the accident.
2. Set forth the place of occurrence, giving in full detail the exact location of the scene of the accident.
3. State the address of the plaintiff(s) at the time of the alleged occurrence.
4. State the present address of the plaintiff(s).
5. State the plaintiff(s) gender, date of birth, social security number and Medicare health insurance claim number, if applicable.
6. Is actual notice claimed? If so, the name of the person to whom notice is claimed to have been given, and whether written or oral and the date thereof.
7. Is constructive notice claimed? If so, the length of time it will be claimed the alleged condition existed.

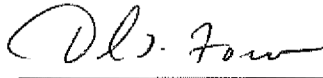
8. Provide a statement of each and every personal injury alleged to have been sustained by plaintiff(s), including the nature, location, extent of duration and the effects of same.
9. State which personal injuries plaintiff(s) will claim are permanent.
10. Separately state the length of time confined (a) to hospital, (b) to bed, and (c) to house.
11. State the length of time the plaintiff(s) was (a) totally disabled, and (b) partially disabled.
12. State the following (a) vocations of plaintiff(s) at the time of the alleged occurrence, (b) names and addresses of employers, (c) average weekly earnings, and (d) state separately period of total and/or partial disability, (e) if self-employed, a detailed statement of how alleged loss of earnings or income are arrived at.
13. Give a detailed statement of amounts claimed as special damages, if any, for (a) physician's services, (b) hospital expenses, (c) nurse's services, (d) medical supplies, (e) loss of earnings, (f) maid's services, (g) any additional or other special damages.
14. Set forth the names and addresses of any and all witnesses to this occurrence.
15. Set forth a general statement of the acts of omissions constituting the negligence claimed.
16. State in what respect the plaintiff(s) have sustained a serious injury as defined in Section 5102(d) of the Insurance Law, or economic loss defined in Section 5102(a) of the Insurance Law.
17. Designate by article, section, division and subdivision, the statutes, ordinances, rules and regulations alleged to have been violated by defendant.
18. A statement of the amount to which the plaintiff claims to be entitled.

PLEASE TAKE FURTHER NOTICE that in the event of your failure to furnish such a Bill of Particulars within the said period of thirty (30) days, a motion will be made for an Order precluding you from giving any evidence at the trial of the above items, of which particulars have not been delivered in accordance with this demand.

Dated: April 26, 2024  
Jericho, New York

Yours, etc.

McCABE, COLLINS, McGEOUGH, FOWLER,  
LEVINE & NOGAN, LLP

By: 

\_\_\_\_\_  
DAVID T. FOWLER

Attorneys for Defendants  
30 Jericho Executive Plaza - Suite 400 C  
Jericho, New York 11753  
516-741-6266  
File No.: 24-SAH-297 DTF-A

TO: FERRO, KUBA, MANGANO, P.C.  
Attorneys for Plaintiff  
825 Veterans Highway  
Hauppauge, New York 11788  
(631) 581-9494  
File No.: P17522-23



24-SAH-297 DTF-A

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X

MARLON GONZALEZ BARRERA,

Index: 151146/2024

Plaintiff,

-against-

**COMBINED DEMANDS  
OF DEFENDANTS**

ANTHONY ODIE,

Defendants.

-----X

PLEASE TAKE NOTICE that you are hereby required to produce and permit discovery by the undersigned of the documents and things hereinafter enumerated for inspection at the office of McCABE, COLLINS, McGEOUGH, FOWLER, LEVINE & NOGAN, LLP on 25<sup>TH</sup> day of June 2024A`, at 10:00 o'clock in the forenoon of that day, at which time they will be physically inspected, tested, copied or mechanically reproduced.

PLEASE TAKE FURTHER NOTICE that production of documents and other items may be accomplished by forwarding true copies of same to the offices of the undersigned on or before the aforesaid date, in which case a personal appearance on that date will not be necessary. If these demands will be complied with by way of a personal appearance, we ask that you confirm your appearance at least twenty-four (24) hours prior thereto.

1. **DEMAND FOR THE NAMES AND ADDRESSES OF WITNESSES:**

PLEASE TAKE NOTICE that demand is hereby made upon you to furnish the undersigned with a verified statement concerning the names and addresses of any and all persons known to your client, or to you, as attorney for your client, claimed to have either been an actual witness to or to have firsthand knowledge with respect to the following:

- a) the occurrence alleged in the complaint and/or the occurrence which is the subject matter of the instant litigation; or
- b) any acts, omissions or conditions which allegedly caused the occurrence alleged in the complaint or caused the occurrence which is the subject matter of the instant litigation; or
- c) any actual notice allegedly given to the defendant answering herein of any condition which allegedly caused the occurrence alleged in the complaint or the occurrence which is the subject matter of the instant litigation; or
- d) the nature and duration of any alleged condition which allegedly caused the occurrence alleged in the complaint or the occurrence which is the subject matter of the instant litigation; or
- e) conversations, communications or writings with respect to the circumstances or events referred to in the complaint or in any affirmative defense asserted by any party herein; or
- f) items of special or general damages asserted by plaintiff in the within action or with respect to any set off or counterclaim by a defendant or third-party defendant.
- g) names and addresses of witnesses who possess vital information which bears on the liability issues. Hughes v. Elias, 120 A.D.2d 703, 502 N.Y.S.2d 772 (2d. Dept. 1986).

This demand is made upon you pursuant to the authority of Zellman v. Metropolitan Transportation Authority, 40 A.D.2d 248, 339 N.Y.S.2d 255, (1973); Zavas v. Morales, 45 A.D.2d 610, 350 N.Y.S.2d (1974); Hoffman v. Ro-San Manor, 73 A.D.2d 207, 425 N.Y.S.2d 619.

In the event that no such names or addresses are currently known, then a verified statement

to this effect shall be provided within the above stated time.

Please be further advised that this demand is a continuing one and that should such information become known in the future, then said names and/or addresses should be furnished within a reasonable time after acquiring same.

Please be further advised that any attempt to introduce testimony at the time of trial of any witnesses not disclosed will be objected to or in the alternative, the undersigned will move this court for an order compelling production of said names and/or addresses.

2. **DEMAND FOR DISCOVERY & INSPECTION OF ANY STATEMENT OF A PARTY REPRESENTED BY THE UNDERSIGNED:**

**PLEASE TAKE FURTHER NOTICE** that the undersigned hereby demands that you produce, pursuant to CPLR 3101(e), full, true legible and complete copies of any and all statements made by or taken from any of the parties represented by the undersigned, their servants, agents and/or employees, whether written, oral or recorded (including, full, true legible and complete copies of transcripts of same) in your possession, custody or control or presently in the possession or under the control of a party you represent, or your agent, servant, employee and/or principal.

3. **DEMAND FOR ACCIDENT REPORTS:**

**PLEASE TAKE FURTHER NOTICE** that the undersigned demands that you produce, pursuant to CPLR 3101(g), full, true, legible and complete copies of any report concerning the accident or occurrence which is the subject matter of this lawsuit prepared in the regular course of business operations or practices of any person, firm, corporation, association or other public or private entity. This demand includes all accident reports, whether or not prepared exclusively in preparation for litigation. Pataki v. Kiseda, 80 A.D.2d 100, 437 N.Y.S.2d 694 (1981).

4. **DEMAND FOR PHOTOGRAPHS**

**PLEASE TAKE FURTHER NOTICE** that the undersigned demands, pursuant to Article 31 of the CPLR, that you produce and provide copies of any and all photographs, slides, videotapes or motion pictures in plaintiff's custody or control depicting:

- a) the scene of the accident or occurrence;
- b) the motor vehicle involved (if an auto accident);
- c) the defective condition involved;
- d) the injuries to the plaintiff;
- e) property damage;
- f) any defect, condition or substance alleged in the complaint.

**PLEASE TAKE FURTHER NOTICE** that your failure to comply with this notice will result in an appropriate application to the court.

**PLEASE TAKE FURTHER NOTICE** that in the event photographs of the scene of the accident or occurrence are attempted to be introduced at the time of trial without compliance with this notice, there will be objections to the introduction of same.

If no such photographs are in the possession, custody or control of any parties you represent in this action, so state in sworn reply to this demand.

5. **DEMAND FOR NAMES & ADDRESSES OF PARTIES & ATTORNEYS:**

**PLEASE TAKE FURTHER NOTICE** that the undersigned demands, pursuant to CPLR 3102(a), 2103(e) and 3118, that you provide a list of those attorneys who have appeared in this action together with their addresses and the name and address of the party for whom such attorneys have appeared.

6. **DEMAND FOR EXPERT WITNESS DISCLOSURE:**

**PLEASE TAKE FURTHER NOTICE** that the undersigned demands, pursuant to CPLR

3101(d), that you set forth the following:

- a) State whether there is any person you expect to call as an expert witness at the time of trial of this action.
- b) If the answer to the preceding is in the affirmative, please state in detail as to each and every such expert person:
  - (i) His identity.
  - (ii) His address.
  - (iii) His field of expertise.
  - (iv) Any sub-specialties of the witness within his field of expertise.
  - (v) In reasonable detail, the subject matter on which each and every expert is expected to testify.
  - (vi) In reasonable detail, the substance of the facts and opinions to which each and every expert is expected to testify.
  - (vii) In reasonable detail, the qualifications of each and every expert witness.
  - (viii) In reasonable detail, a summary of the grounds for each and every expert's opinion.
  - (ix) Names, dates and publishers of any treatises, books, articles, or essays or other writings published or unpublished by the expert relating in any way to the subject matter on which said expert is expected to testify. For each published article and essay, state the title of the book, journal or other work in which it can be found and the name and address of the publisher and date of publication.
- c) State whether any expert, including but not limited to the person or persons identified

in the preceding demands, at any time made an examination analysis, inspection or test of:

- (i) The premises of the area involved in the occurrence.
  - (ii) Any other item of real evidence which may be relevant to determining the cause of the occurrence of the damages alleged in the Complaint.
- d) If the answer to any preceding demands is in the affirmative, for each such person state:
- (i) The determination, if any, as to whether or not the product or item inspected was manufactured and/or installed consistent with specifications.
- e) Has the object, product or item identified in the preceding demands been destroyed or altered in the course of the examination, analysis, inspection or test performed upon it?
- f) Did anyone assist the persons identified in the preceding demands in the performance of the examination, inspection and analysis of tests?
- g) If the answer to any of the preceding demands is in the affirmative:
- (i) Identify each person who gave such assistance.
  - (ii) Describe the type and amount of assistance given.
  - (iii) State the dates on which such assistance was given.
- h) Did any of the persons identified in any of the preceding demands submit any reports based upon the test examinations conducted?
- i) If the answer to any of the preceding demands is in the affirmative, state:
    - (i) A description of each report that was made.
    - (ii) The date that each report was made.

- (iii) Identify the person to whom each report was submitted.
- (iv) Identify the persons who have present custody of each report.
- j) Attach a copy of any reports identified in response to any of the preceding demands.

**PLEASE TAKE FURTHER NOTICE** that upon your failure to respond to this demand within thirty (30 )days, a motion will be made pursuant to CPLR 3101(d) for sanctions and/or to compel compliance with same.

7. **DEMAND FOR MEDICALS**

**PLEASE TAKE FURTHER NOTICE** that pursuant to CPLR 3101 and the Appellate Division and/or Trial Term Rules and the Uniform Rules for the New York State Trial Courts, demand is hereby made upon the plaintiff(s) or his/her attorneys to provide:

- a) the names and addresses of all physicians, osteopaths, chiropractors, physical therapists and other licensed medical professionals and other health care providers of every description who have consulted, examined or treated the plaintiff for each of the conditions, physical or mental, allegedly caused by, or exacerbated by the occurrence described in the complaint, including the date of such treatment or examination.
- b) duly executed and acknowledged written authorizations directed to any hospital, clinic or health care facility in which the injured plaintiff(s) herein is or was treated or confined due to the occurrence set forth in the complaint so as to permit the securing of a copy of the entire hospital record or records including x-rays and technicians' reports.
- c) duly executed and acknowledged written authorizations to allow defendant(s) to obtain the complete office medical records relating to the plaintiff of each health care

- provider identified in (a) above.
- d) copies of all medical reports received from health care providers identified in (a) above. These shall include a detailed recital of the injuries and conditions as to which testimony will be offered at the trial, referring to and identifying those x-rays and technician's reports which will be offered.
  - e) duly executed and acknowledged written authorizations specifying prescription number(s) which will allow the defendant(s) to obtain the complete records of all drugs prescribed for plaintiff for one (1) year prior to the occurrence described in the complaint to the present date.
  - f) duly executed and acknowledged written authorizations specifying prescription number(s) which will allow defendant(s) to obtain the complete records of all drugs prescribed for plaintiff for injuries allegedly sustained in the occurrence complained of in the complaint.
  - g) duly executed and acknowledged written authorizations with respect to any osteopaths, chiropractors and/or other licensed medical professionals who have rendered treatment to plaintiff(s) with respect to any condition pre-existing or preceding the events complained of in the complaint involving disease, disability or injury (or, if applicable, prior psychiatric or psychological disorders) which in any way is alleged to have been aggravated or exacerbated, or to have caused any increase in the sequella of those injuries or conditions allegedly resulting from the events complained of in the within action.
  - h) duly executed authorizations with respect to any hospitals, clinics or other similar health care providers which have rendered treatment to plaintiff(s) with respect to any



condition pre-existing or preceding the events complained of in the complaint involving disease, disability or injury (or, if applicable, prior psychiatric or psychological disorders which in any way is alleged to have caused any increase in the sequella of those injuries or conditions allegedly resulting from the events complained of in the within action.

**PLEASE TAKE FURTHER NOTICE** that with respect to Items (a), (b), (c), (d), (e), (f), (g) and (h), the authorizations to be provided shall state the approximate period or periods that such services were rendered, as well as the complete name and address of the provider.

**PLEASE TAKE FURTHER NOTICE** that upon your failure to comply with this demand, an appropriate motion will be made seeking an order compelling the production of the aforesaid and in addition, a motion will be made to preclude plaintiff(s) upon the trial of the within action from offering evidence or testifying as to any of the conditions which are referred to in said reports, records or examinations demanded herein.

8. **DEMAND FOR COLLATERAL SOURCES:**

**PLEASE TAKE FURTHER NOTICE** that the undersigned hereby demands that you produce:

A verified statement setting forth the amounts claimed by the plaintiff(s) for the cost: a) medical care; b) dental care; c) custodial care; d) rehabilitation services; e) loss of earnings; and f) any other economic loss.

**FURTHER**, it is demanded that the plaintiff(s) list and identify in a verified statement and provide duly executed and acknowledged authorizations directed to each and every collateral source including, but not limited to, insurance, no-fault, social security, disability, Workers' Compensation or employee benefit programs, Medicare health insurance (including said claim number) setting forth

the names, addresses and policy numbers of the providers of such collateral sources as well as the amounts paid and the dates paid.

**PLEASE TAKE FURTHER NOTICE** that submission to the undersigned of duly executed authorizations and true and conformed certified copies of the items demanded herein at any time prior to the date set forth for such discovery and inspection will be deemed compliance with this demand provided it is accompanied by a verified statement as to the accuracy thereof.

**PLEASE TAKE FURTHER NOTICE** that if this notice is not complied with, an application will be made for the imposition of appropriate sanctions and to compel compliance with this notice.

9. **DEMAND FOR DISCOVERY OF INSURANCE POLICIES**

**PLEASE TAKE FURTHER NOTICE** that the undersigned demands, pursuant to CPLR 310(f), that you produce all policies of insurance, including excess, umbrella and/or catastrophe insurance, applicable to the within occurrence which may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

**PLEASE TAKE FURTHER NOTICE** that a copy of the face sheet of the insurance policy and/or a letter on your stationery or on the insurance carrier's stationery setting forth limits of liability will suffice in lieu of production of the insurance agreement above requested. If any of the insurers who issues the above referenced policy have disclaimed coverage, in whole or in part, or are defending under a reservation of rights, please so state and provide a true copy of said disclaimer of coverage or reservation of rights.

**PLEASE TAKE FURTHER NOTICE** that upon your failure to produce the insurance agreement or a statement as to coverage, a motion may be made for discovery and inspection and

costs may be requested.

**PLEASE TAKE FURTHER NOTICE** that the foregoing are continuing demands and that if any of the above items are obtained after the date of this demand, they are to be furnished to the undersigned pursuant to these demands.

10. **DEMAND FOR EMPLOYMENT AND INCOME VERIFICATION:**

**PLEASE TAKE FURTHER NOTICE** that if a claim for lost earnings or diminution of earning capacity is being made, the undersigned demands that you produce the following:

- a) If the plaintiff(s) was not self-employed, duly executed and acknowledged original, written authorizations directed to the last employer prior to the date of accident/occurrence and the first employer subsequent to the date of accident/occurrence so as to permit the securing of plaintiff's entire personnel/performance record including records regarding wages, attendance, original job application and medical records.
- b) If plaintiff(s) was self-employed, it is demanded that the undersigned be supplied with a properly completed and executed IRS Form 4506 authorization the IRS to release plaintiff's full income tax returns for a period of five (5) years preceding the accident and/or occurrence in question and to date.

11. **DEMAND FOR INFORMATION PURSUANT TO CPLR §306-a.**

**PLEASE TAKE NOTICE** that pursuant to §306-a of the Civil Practice Law and Rules you are hereby required to provide to the undersigned attorneys, confirmation that the Summons with proof of service upon our client(s) has been filed with the Clerk of the within Court and an identification of the index number which has been assigned by said Clerk.

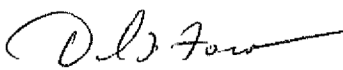
PLEASE TAKE FURTHER NOTICE that pursuant to §306-a(c) of the Civil Practice Law and Rules, upon your failure to comply herewith within 20 days hereof, an application shall be made to the Court for an Order requiring the plaintiff(s) to file such Summons with proof of service together with the costs and attorneys' fees incurred in making such application.

PLEASE TAKE FURTHER NOTICE that your failure to comply herewith will result in an application by the undersigned to the Court for the appropriate relief and sanctions now or at the time of trial herein.

Dated: April 26, 2024  
Jericho, New York

Yours, etc.

McCABE, COLLINS, McGEOUGH, FOWLER,  
LEVINE & NOGAN, LLP

By: 

\_\_\_\_\_  
DAVID T. FOWLER

Attorneys for Defendants  
30 Jericho Executive Plaza - Suite 400 C  
Jericho, New York 11753  
516-741-6266  
File No.: 24-SAH-297 DTF-A

TO: FERRO, KUBA, MANGANO, P.C.  
Attorneys for Plaintiff  
825 Veterens Highway  
Hauppauge, New York 11788

24-SAH-297 DTF-A

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
MARLON GONZALEZ BARRERA,

Index No.: 151146/2024

Plaintiff,

-against-

**DEMAND PURSUANT  
TO CPLR §3017**

ANTHONY ODIE,

Defendants.

-----X

**PLEASE TAKE NOTICE**, that pursuant to CPLR §3017, demand is hereby made that plaintiff serve and deliver to the undersigned attorney for the answering defendants, a supplemental demand setting forth the amount of damages to which the plaintiff deems herself entitled.

Dated: April 26, 2024  
Jericho, New York

Yours, etc.

McCABE, COLLINS, McGEOUGH, FOWLER,  
LEVINE & NOGAN, LLP

By: 

DAVID T. FOWLER

Attorneys for Defendants  
30 Jericho Executive Plaza - Suite 400 C  
Jericho, New York 11753  
516-741-6266  
File No.: 24SAH277 DTF-A

24-SAH-297 DTF-A

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
MARLON GONZALEZ BARRERA,

Index No.: 151146/2024

Plaintiffs,

-against-

ANTHONY ODIE,

Defendants.

-----X

**NOTICE FOR DISCOVERY AND INSPECTION  
FOR PRIOR/SUBSEQUENT ACCIDENTS/INJURIES**

PLEASE TAKE NOTICE, that pursuant to the applicable sections and rules of the CPLR, you are hereby required to produce at the office of the undersigned, within 30 days from the date hereof, the following:

**REGARDING PLAINTIFF'S PRIOR ACCIDENTS AND/OR SUBSEQUENT  
ACCIDENTS AND/OR INJURY IN WHICH PLAINTIFF INJURED THE SAME BODY  
PART OR PARTS OF HIS BODY INJURED IN THE SUBJECT ACCIDENT**

1. Duly executed, written, original authorizations including complete name, address, patient number and any other pertinent and/or identifying information for the following records:

- (a) Copies of all medical reports, x-ray films, x-ray reports, diagnostic tests and diagnostic test reports regarding plaintiff's care and treatment following said accident.

2. If litigation was commenced and/or Worker's Compensation claim made as a result of that accident, the following, or authorizations for the following:

- (a) All pleadings, index number, Bills of Particulars, Notices for Discovery and Inspection and Responses thereto.
- (b) Copies of all Examination Before Trial Transcripts and Municipal Hearing Transcripts.
- (c) The name and address of the attorney representing plaintiff/claimant and the defendant(s)/respondent(s) together with authorizations to obtain a copy of the non-privileged portion of the legal files.
- (d) The complete name and address of the defendant(s) together with his/her/their insurance company.
- (e) An authorization for the no-fault or collateral source file, including Worker's Compensation file from the Worker's Compensation carrier and Worker's Compensation board, and a Social Security Disability authorization.
- (f) Copies of all narrative reports received by the plaintiff and/or served by the defendant(s).
- (g) A copy of the General Release regarding said action.

3. Duly executed, written, original authorizations, including complete name, address, patient number, dates of treatment and other pertinent and/or identifying information for the following:

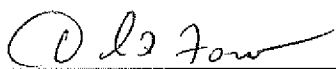
- (a) All health care providers;
- (b) Hospital admissions, emergency room treatment, out-patient and clinic treatment;
- (c) All diagnostic testing reports and films;
- (d) No-fault or collateral source providers; and
- (e) Employment records.

**PLEASE TAKE FURTHER NOTICE**, that failure to comply with this Demand will result in a motion to impose sanctions and penalties proposed by the CPLR.

Dated: April 26, 2024  
Jericho, New York

Yours, etc.

McCABE, COLLINS, McGEOUGH, FOWLER,  
LEVINE & NOGAN, LLP

By:  \_\_\_\_\_

DAVID T. FOWLER

Attorneys for Defendants  
30 Jericho Executive Plaza - Suite 400 C  
Jericho, New York 11753  
516-741-6266  
File No.: 24SAH277 DTF-A

TO: FERRO, KUBA, MANGANO, P.C.  
Attorneys for Plaintiff  
825 Veterans Highway  
Hauppauge, New York 11788  
(631- 581-9494



24-SAH-297 DTF-A

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
MARLON GONZALEZ BARRERA,

Plaintiff,

-against-

ANTHONY ODIE,

Defendants.

-----X

Index: 151146/2024

**NOTICE TO TAKE  
DEPOSITION UPON  
ORAL EXAMINATION**

PLEASE TAKE NOTICE, that pursuant to Article 31 of the Civil Practice Law and Rules, the testimony upon oral examination of adverse parties will be taken before a Notary Public who is not an attorney, or employee of an attorney, for any party or prospective party herein and is not a person who would be disqualified to act as a juror because of interest or because of consanguinity or affinity to any party herein, at 30 Jericho Executive Plaza, Suite 400C, Jericho, New York on a date to be determined with respect to evidence material and necessary in the defense of this action:

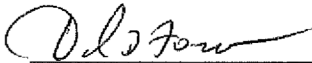
All of the relevant facts and circumstances in connection with the accident which occurred on the 20<sup>th</sup> day of June, 2024, including negligence, contributory negligence, liability and damages.

That the said person to be examined is required to produce at such examination the following: Any and all records, reports, memoranda and other writings relevant to the subject matter of the instant action.

Dated: April 26, 2024  
Jericho, New York

Yours, etc.

McCABE, COLLINS, McGEOUGH, FOWLER,  
LEVINE & NOGAN, LLP

By:  \_\_\_\_\_

Attorneys for Defendants  
30 Jericho Executive Plaza - Suite 400 C  
Jericho, New York 11753  
516-741-6266  
File No.:

TO: FERRO, KUBA, MANGANO, P.C.  
Attorneys for Plaintiff  
825 Veterens Highway  
Hauppauge, New York 11788  
(631) 581-9494

24-SAH-297 DTF-A

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X

MARLON GONZALEZ BARRERA,

Index: 151146/2024

Plaintiff,

-against-

**DEMAND FOR  
AUTHORIZATIONS**

ANTHONY ODIE,

Defendants.

-----X

PLEASE TAKE NOTICE, that demand is hereby made upon you to deliver to the undersigned, attorneys for the defendant(s) above-named, within thirty (30) days after service of this demand, original, duly executed and acknowledged written authorizations completed to include the name, address and any other available information identifying the individual, facility or entity to which each of said authorizations is directed, permitting the law firm of McCABE, COLLINS, McGEOUGH, FOWLER, LEVINE & NOGAN, LLP or their authorized representatives to inspect and copy the following records:

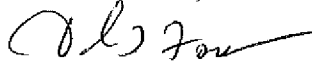
- a) School records;
- b) Employment records;
- c) Hospital/emergency room records;
- d) Health care providers records;
- e) Physical therapists records;
- f) MRI films/x-ray films/diagnostic testing;
- g) No-fault carrier records regarding claim(s) for no-fault benefits;
- h) Worker's Compensation records;
- i) Disability carrier records regarding claim(s) for disability benefits; and
- j) IRS authorization for 1 year prior and 2 years post accident.

PLEASE TAKE FURTHER NOTICE, that upon your failure to comply with this demand within the time aforesaid, an application will be made to the Court for the appropriate relief.

Dated: April 26, 2024  
Jericho, New York

Yours, etc.

McCABE, COLLINS, McGEOUGH, FOWLER,  
LEVINE & NOGAN, LLP

By:   
\_\_\_\_\_  
DAVID T. FOWLER

Attorneys for Defendants  
30 Jericho Executive Plaza - Suite 400 C  
Jericho, New York 11753

TO: FERRO, KUBA, MANGANO, P.C.  
Attorneys for Plaintiffs  
825 Veterans Highway  
Hauppauge, New York 11788  
(631) 581-9494  
File No.: P17522-23

24-SAH-297 DTF-A

SUPREME COURT OF THE CITY OF NEW YORK  
COUNTY OF NEW YORK

-----X  
MARLON GONZALEZ BARRERA,

Index No.: 151146/2024

Plaintiffs,

-against-

ANTHONY ODIE,

**NOTICE FOR  
DISCOVERY  
and INSPECTION**

Defendant.  
-----X

**PLEASE TAKE NOTICE**, that pursuant to the applicable sections and rules of the CPLR, you are hereby required to produce at the office of the undersigned, within 30 days from the date hereof, the following. **In addition, all medical authorizations must be HIPAA compliant and each authorization must reflect that said authorization will be valid through the conclusion of litigation:**

1. Duly executed, written, original, unrestricted authorization, including complete name, address, patient number and any other pertinent and/or identifying information to obtain plaintiff's records from any and all video conference/telemedicine appointment/contacts for any treating clinicians during the COVID-19 lockdown or since the outbreak of COVID-19;
2. Any and all records, including but not limited to electronic records, in plaintiff's possession, from any video conference/telemedicine appointment/contacts for any treating clinicians during the COVID-19 lockdown or since the outbreak of COVID-19.

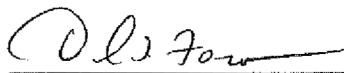
**PLEASE TAKE FURTHER NOTICE** that the foregoing are continuing demands and that if any of the above items are obtained after the date of this demand, they are to be furnished to the undersigned pursuant to these demands.

**PLEASE TAKE FURTHER NOTICE**, that failure to comply with this Demand will result in a motion to impose sanctions and penalties proposed by the CPLR.

Dated: April 26, 2024  
Jericho, New York

Yours, etc.,

McCABE, COLLINS, McGEOUGH, FOWLER,  
LEVINE & NOGAN, LLP

By:   
\_\_\_\_\_  
DAVID T. FOWLER

Attorneys for Defendant  
30 Jericho Executive Plaza - Suite 400 C  
Jericho, New York 11753  
516-741-6266  
File No.: 24SAH297 DTF-A

TO: FERRO, KUBA, MANGANO, P.C.  
Attorneys for Plaintiff  
825 Veterans Highway  
Hauppauge, New York 11788  
(631- 581-9494  
File No.: P17522-23

24-SAH-297 DTF-A

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X

MARLON GONZALEZ BARRERA,

Index No.: 151146/2024

Plaintiffs,

-against-

ANTHONY ODIE,

Defendants.

-----X

**NOTICE TO SUBMIT TO PHYSICAL EXAMINATION**

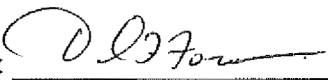
PLEASE TAKE NOTICE, that defendant(s), ANTHONY ODIE by attorneys, McCABE, COLLINS, McGEOUGH, FOWLER, LEVINE & NOGAN, LLP, require that plaintiff(s) submit to physical examination(s) on a date after Examinations Before Trials are completed and after all pertinent medical information has been exchanged by plaintiff(s) as per 22 N.Y.C.R.R. §202.17.

PLEASE TAKE FURTHER NOTICE, that your office will be contacted to schedule a date and location for the physical examination(s).

Dated: April 26, 2024  
Jericho, New York

Yours, etc.

McCABE, COLLINS, McGEOUGH, FOWLER,  
LEVINE & NOGAN, LLP

By:  \_\_\_\_\_

DAVID T. FOWLER

Attorneys for Defendant  
30 Jericho Executive Plaza - Suite 400 C

Jericho, New York 11753  
(516) 741-6266  
File No.: 24SAH297 DTF-A

TO: FERRO, KUBA, MANGANO, P.C.  
Attorneys for Plaintiff  
825 Veterans Highway  
Hauppauge, New York 11788  
(631- 581-9494  
File No.: P17522-23

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
MARLON GONZALEZ BARRERA,

Index No.: 151146/2024

Plaintiff,

**DEMAND FOR  
PRE-SURGICAL  
INDEPENDENT MEDICAL  
EXAMINATION**

-against-

ANTHONY ODIE,

Defendant.

-----X

COUNSELORS:

PLEASE TAKE NOTICE that Defendants ANTHONY ODIE (hereinafter collectively “Defendants”), by and through their attorneys, McCabe, Collins, McGeough, Fowler, Levine & Nogan, LLP, as and for their Demand for PreSurgical Independent Medical Examinations, hereby demand as follows:

**DEMAND FOR PRE-SURGICAL INDEPENDENT MEDICAL EXAMINATION**

1. Demand is hereby made that should Plaintiff(s), from this date forward, until the end of litigation, schedule a surgical procedure related to injuries alleged to be sustained in the subject accident, then Defendants demand and require Plaintiff(s) to appear for pre-surgical independent medical examinations, to be scheduled by Defendants.
2. Plaintiff(s) has put his/her/their medical condition into issue by seeking damages. The defense is entitled to have independent medical examinations to enable it to defend against Plaintiff(s) claim of injury.
3. Plaintiff(s) counsel is to provide any scheduled dates of surgical procedures, the name and address of the physician performing the surgery, and the place of surgery.
4. Plaintiff(s) counsel is to provide, at least three dates Plaintiff(s) is/ are available to appear for Independent Medical Examinations prior to any surgery.
5. Defendants have a right to see the alleged injuries in an unaltered state for the purpose of ascertaining their existence and causation. If you fail to properly secure



and preserve this evidence and alter it prior to the requested independent medical examinations, we will pursue spoliation of evidence claim and seek all sanctions available under the applicable law.

6. Civil Practice Law and Rules Section 3121 (a), states:

Notice of examination. After commencement of an action in which the mental or physical condition or the blood relationship of a party, or of an agent, employee or person in the custody or under the legal control of a party, is in controversy, any party may serve notice on another party to submit to a physical, mental or blood examination by a designated physician, or to produce for such examination his agent, employee or the person in his custody or under his legal control.

7. This right is also found in New York's Court Rules, 22 NYCRR 202.17(a), which states:

At any time after joinder of issue and service of a Bill of Particulars, the party to be examined or any other party may serve on all other parties a notice fixing the time and place of examination.

8. This demand in no way infringes, interferes with or is to be construed as a waiver of the rights of Defendants to full and unfettered Independent Medical Examinations by doctors of defendant's choosing following the provision of Plaintiff(s) medical data and following Plaintiff(s) deposition.

**PLEASE TAKE FURTHER NOTICE** that failure to comply with these demands will serve as a basis for a motion to preclude Plaintiff(s) upon trial of this action from offering proof relative to medical damages if said Independent Medical Examination is not complied with prior to Plaintiff's surgery including all remedies available pursuant to spoliation of evidence.

**PLEASE TAKE FURTHER NOTICE** that these are all continuing demands and should any of the information requested become available to or known in the future, then you are required to furnish same at such time.

**DISCOVERY OF THE ABOVE IS TO BE PRODUCED** within ten (10) days of the date of these demands at the office of: McCabe, Collins, McGeough, Fowler, Levine & Nogan, LLP, 30 Jericho Executive Plaza - Suite 400 C, Jericho, New York 11753.

**COMPLIANCE** may be effectuated by sending true copies of the requested material, where applicable, to undersigned before the due date herein.

**PLEASE TAKE FURTHER NOTICE** that upon your failure to comply with these demands, the parties we represent shall seek all appropriate sanctions including precluding plaintiff upon trial of this action from offering proof relative to medical damages and such other and further relief as the Court deems necessary.

Dated: April 26, 2024  
Jericho, New York

Yours, etc.

McCABE, COLLINS, McGEOUGH, FOWLER,  
LEVINE & NOGAN, LLP

By: 

DAVID T. FOWLER

Attorneys for Defendants  
30 Jericho Executive Plaza - Suite 400 C  
Jericho, New York 11753  
(516) 741-6266  
Our File No.: 24SAH297 DTF-A

TO: FERRO, KUBA, MANGANO, P.C.  
Attorneys for Plaintiff  
825 Veterans Highway  
Hauppauge, New York 11788  
(631- 581-9494  
File No.: P17522-23

24-SAH-297 DTF-A

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
MARLON GONZALEZ BARRERA,

Index No.: 151146/2024

Plaintiff,

-against-

**DEMAND FOR  
LOAN DOCUMENTS**

ANTHONY ODIE,

Defendant.

-----X

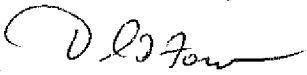
**PLEASE TAKE NOTICE** that the undersigned requests copies of all documents (whether paper or electronic) that refer to the above captioned lawsuit and any loan or similar transfer of money (in any form) to plaintiff, including, but not limited to, any such loan or similar transfer from any person or entity in the business of making such loans or similar transfers in connection with lawsuits.

**PLEASE TAKE FURTHER NOTICE** that the undersigned requests that any documents described by this demand which plaintiff receives in the future be served on the undersigned within thirty (30) days of receipt as required by CPLR §3101(h).

Dated: Jericho, New York

Yours, etc.,

McCABE, COLLINS, McGEOUGH, FOWLER,  
LEVINE & NOGAN, LLP

By:   
\_\_\_\_\_  
DAVID T. FOWLER

Attorneys for Defendant  
30 Jericho Executive Plaza - Suite 400 C

Jericho, New York 11753  
516-741-6266  
File No.: 24SAH277-DTF-A

TO: FERRO, KUBA, MANGANO, P.C.  
Attorneys for Plaintiff  
825 Veterans Highway  
Hauppauge, New York 11788  
(631- 581-9494  
File No.: P17522-23

24-SAH-297 DTF-A

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X

MARLON GONZALEZ BARRERA,

Index No. 151146/2024

Plaintiff,

-against-

ANTHONY ODIE,

Defendants.

-----X

**DEMAND FOR  
INSURANCE COVERAGE  
AND MEDICARE/  
MEDICAID/  
INFORMATION AND  
INTEGRAL  
DOCUMENTS  
FOR SETTLEMENT**

**PURSUANT TO NOTICE**, demand is made upon the respective plaintiff(s) appearing in this action to reveal to the undersigned in writing, within twenty (20) days, pursuant to Section 3101(f) of the Civil Practice Law and Rules, and Section 111 of Public Law 110-173 the following:

1. The address of the Worker’s Compensation Board which has jurisdiction over plaintiff’s claim, if any, for Worker’s Compensation benefits in connection with injuries allegedly sustained in the subject action, as well as the file number assigned to same and an authorization permitting defendant to obtain; review and copy the aforementioned file. If plaintiff does not have a Worker’s Compensation claim, please so state.

2. The name and address of the insurance carrier to which plaintiff has made claim, if any, for Worker’s Compensation benefits in connection with injuries allegedly sustained in the subject action, as well as the file number assigned to same and an authorization permitting defendant to obtain, review and copy the aforementioned file. If plaintiff does not have a Worker’s Compensation claim, please so state.

3. The name and address of the insurance carrier to which plaintiff has made claim, if any, for No-Fault benefits in connection with injuries allegedly sustained in the subject action, as well as the file number assigned to same and an authorization permitting defendant to obtain, review and copy of the aforementioned file. If plaintiff has not made a claim for No-Fault benefits, please so state.

4. The name and address of the insurance carrier to which plaintiff has made claim for medical insurance coverage in connection with injuries allegedly sustained in the subject action, as well as the file number assigned to the same and an authorization to obtain, review and copy the aforementioned file.

5. The name and address of the insurance carrier to which plaintiff has made a claim, if any, for disability insurance coverage in connection with injuries allegedly sustained in the subject action, as well as the file number assigned to the same and an authorization to obtain, review and copy the aforementioned file. If plaintiff has not made a disability insurance coverage claim, please so state.

6. Pursuant to the Mandatory Insurer Reporting Law (Section 111 of Public Law 110-173), you are required to provide the following information if you are pursuing a claim for bodily injury, medical payments, Worker's Compensation or No-Fault benefits: (1) First and Last Name; (2) Gender; (3) Date of Birth; (4) Social Security Number; and (5) Medicare Health Insurance Claim Number (HICN) if you have one.

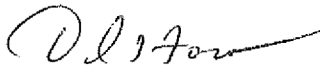
**PLEASE TAKE FURTHER NOTICE**, that integral to any settlement and a condition precedent to any settlement payment and part of the settlement documents to be provided to defendants is the presentation to defendants of a fully filled out and executed medicare disclosure, which is annexed to this demand and the plaintiff counsel shall provide the information supplied in said form to the Centers of Medicare and Medicaid Services, additionally a MSPRC/CMS,

Medicare/Final Lien Letter reflecting the final amount of any lien must be provided to defense counsel prior to payment of settlement.

Dated: April 26, 2024  
Jericho, New York

Yours etc.,

McCABE, COLLINS, McGEOUGH, FOWLER,  
LEVINE & NOGAN, LLP

By: 

DAVID T. FOWLER

Attorney for Defendant  
30 Jericho Executive Plaza - Suite 400 C  
Jericho, New York 11753  
(516) 741-6266  
File No.: 24SAH277 DTF-A

TO: FERRO, KUBA, MANGANO, P.C.  
Attorneys for Plaintiff  
825 Veterans Highway  
Hauppauge, New York 11788  
(631) 581-9494  
File No.: P17255-23

Are you presently, or have you ever been, enrolled in Medicare Part A or Part B?   Yes <input type="checkbox"/> No <input type="checkbox"/>																																							
Full Name? (Please print the name exactly as it appears on your SSN or Medicare card if available.)																																							
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> <td style="width: 15px; height: 15px;"></td> </tr> </table>																																							

Medicare Claim No.:

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Date of Birth: (mm/dd/yyyy)

		---			---				
--	--	-----	--	--	-----	--	--	--	--

Social Security Number: (If Medicare Claim Number is Unavailable)

			---			---				
--	--	--	-----	--	--	-----	--	--	--	--

Gender:

Male       Female

Section II

I understand that the information requested is to assist the requesting insurance arrangement to accurately coordinate benefits with Medicare and to meet its mandatory reporting obligations under Medicare law.

\_\_\_\_\_

Claimant Name (Please Print)

\_\_\_\_\_

Claim Number

\_\_\_\_\_

Name of Person Completing This Form If Claimant is Unable (Please Print)

\_\_\_\_\_

Signature of Person Completing This Form

\_\_\_\_\_

Date



If you have completed Sections I and II above, stop here. If you are refusing to provide any of the information requested in Sections I and II or you do not have a Social Security Number, proceed to Section III.

Section III

\_\_\_\_\_  
Claimant Name (Please Print)

\_\_\_\_\_  
Claim Number

For the reason(s) listed below, I have not provided the information requested. I understand that if I am a Medicare beneficiary and I do not provide the requested information, I may be violating obligations as a beneficiary to assist Medicare in coordinating benefits to pay my claims correctly and promptly.

Reason(s) for Refusal to Provide Requested Information:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Person Completing the Form

\_\_\_\_\_  
Date

24-SAH-297 DTF-A

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
MARLON GONZALEZ BARRERA,

Index No.: 151146/2024

Plaintiff,

-against-

ANTHONY ODIE,

Defendant.

**NOTICE REGARDING  
HOLD-HARMLESS  
AGREEMENT AND  
INTEGRAL  
DOCUMENTS  
FOR SETTLEMENT**


-----X

**PLEASE TAKE NOTICE**, that integral to any settlement and a condition precedent to any settlement payment and part of the settlement documents to be provided to defendants is the presentation to defendants of a fully filled out and executed hold harmless agreement executed by plaintiff(s) and plaintiff's law firm, a blank form of which is annexed to this notice.

Dated: Jericho, New York

Yours etc.,

McCABE, COLLINS, McGEOUGH, FOWLER,  
LEVINE & NOGAN, LLP

By:   
\_\_\_\_\_  
DAVID T. FOWLER

Attorney for Defendant  
30 Jericho Executive Plaza - Suite 400 C  
Jericho, New York 11753  
(516) 741-6266  
File No.: 24SAH297-DTF-A

TO: FERRO, KUBA, MANGANO, P.C.  
Attorneys for Plaintiffs  
825 Veterans Highway  
Hauppauge, New York 11788  
(631) 581-9494  
File No.: P17522-23

24-SAH-297 DTF-A

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
MARLON GONZALEZ BARRERA,

Index No.: 151146/2024

Plaintiff,

**HOLD-HARMLESS  
AGREEMENT**

-against-

ANTHONY ODIE,

Defendant.

-----X

**IT IS HEREBY STIPULATED, AGREED AND WARRANTED**, by and on behalf of the plaintiff(s), MARLON GONZALEZ BARRERA, , in consideration of the settlement:

1. Pursuant to §111 of the Medicare, Medicaid and SCHIP Extension Action of 2007, The Center of Medicare and Medicaid Services must be provided and plaintiff counsel shall provide the releasor’s full address, social security number, date of birth, gender and, if available, their Medicare Health Insurance Claim Number (HICN). Provision of this information is a condition of this settlement.

2. It is expressly understood and agreed, plaintiff(s) and their counsel covenant and agree that any and all Medicare, Social Security, hospital, medical insurance coverage subrogation claims and/or any and all other type of liens or interest that is and/or could be claimed by any person and/or entity, will be fully paid, satisfied and released. The settlement proceeds, paid herein, shall be kept in trust, unless and until such time as said liens and/or claims have been full paid, satisfied or released.

In this regard, plaintiff(s) agree to defend, indemnify and hold harmless the Released Parties, their insurance carriers, their attorneys and all others in privity with them, including but not

limited to, ANTHONY ODIE, STATE FARM INSURANCE COMPANY and McCABE, COLLINS, McGEOUGH, FOWLER, LEVINE & NOGAN, LLP, from any claim by, through and/or under plaintiff(s) including, but not limited to, any direct claim by Medicare and/or Social Security for reimbursement of any funds paid by them relating to the injuries and claims arising from the accident in question and any other liens, claims or actions arising from the settlement or asserted against the settlement proceeds, whether known or unknown.

3. Plaintiff(s) and their counsel will have the sole responsibility to satisfy any lien or claim asserted against the settlement proceeds or arising from the settlement.

4. It is further expressly understood and agreed, to the fullest extent applicable, plaintiff(s) and their counsel covenant that as to plaintiff(s), they will set aside funds necessary in any approved Medicare Set Aside Account, to pay for any anticipated future medical and/or health care needs of the plaintiff(s), for any injury and/or condition that requires treatment that arises from the injuries related and/or caused by the accident in question. In the alternative, plaintiff(s) shall, in concert and consultation with their counsel, aver and convent that they do not presently anticipate that plaintiff(s) will require medical and/or health care treatment for the injuries and/or conditions related and/or arising from the accident in question. Further, should funds not be placed in an approved Medicare Set Aside Account for plaintiff(s), and care and treatment for injuries and/or conditions reasonably related to the accident is subsequently sought, then plaintiff(s) covenants and represents to the Released Parties, their insurance carriers, their attorney and others in privity with them, that plaintiff(s) will not submit nor seek payment for said medical care from Medicare and/or any other government funded program. This covenant and representation shall be included as part of the indemnification obligations of plaintiff(s) stated herein.

5. Plaintiff(s) and/or plaintiff(s)' counsel will completely satisfy all claims and liens,

Workers' Compensation, Medicare, Medicaid and/or any other entity, has or may have with respect to the settlement of this action and the claims asserted in this action by paying all funds due and owing relative to any of the aforementioned. The insurance carrier reserves its right to pay Medicare directly.

6. It is understood and agreed that the following information, below, will be provided herein and will be provided to The Centers of Medicare and Medicaid Services pursuant to The Medicare, Medicaid and SCHIP Extension Act of 2007 by plaintiff(s) and/or their attorneys.

Full Name as it appears on your Social Security Card

Social Security Number

\_\_\_\_\_

\_\_\_\_\_

Address:

Date of Birth:

\_\_\_\_\_

\_\_\_\_\_

Medicare health Insurance Claim Number (HICN)

Gender:

\_\_\_\_\_

\_\_\_\_\_

By:

By:

\_\_\_\_\_

\_\_\_\_\_

STATE OF NEW YORK)  
  )SS:  
COUNTY OF                    )

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came MARLON GONZALEZ BARRERA, and to me known and known to me to be the individual described in and who executed the foregoing **HOLD-HARMLESS AGREEMENT**, and duly acknowledged to me that she executed the same.

\_\_\_\_\_  
NOTARY PUBLIC

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
MARLON GONZALEZ BARRERA,

Index No.:151146/2024

Plaintiff,

-against-

**DEMAND FOR  
SOCIAL MEDIA  
INFORMATION and  
PRESERVATION**

ANTHONY ODIE,

Defendant

-----X

COUNSELORS:

**PLEASE TAKE NOTICE** that Defendant, GLADYS V. BUSTAMENATE (hereinafter collectively “Defendants”), by and through their attorneys, McCabe, Collins, McGeough, Fowler, Levine & Nogan, LLP., as and for their Demand for Social Media Information and Preservation, hereby demand as follows:

**DEMAND FOR SOCIAL MEDIA INFORMATION AND PRESERVATION**

**FACEBOOK:**

Authorization for release of all records and photographs to include the email address associated with the account, username/ handle for Plaintiff(s) and/ or Decedent.

If Plaintiff(s) and/or Decedent never had a Facebook account, provide an affidavit from Plaintiff(s) stating same.

If Plaintiff(s) and/or Decedent does not have a Face book account presently, and have not had one for two years prior to the date of loss, but have had an account in the past, provide an affidavit to that effect.

**INSTAGRAM:**

Authorization for release of all records and photographs to include the email address associated with the account, username/ handle for Plaintiff(s) and/ or Decedent

If Plaintiff(s) and/or Decedent never had an Instagram account, provide an affidavit from Plaintiff(s) stating same.

If Plaintiff(s) and/or Decedent does not have an Instagram account presently, and have not had one for two years prior to the date of loss, but have had an account in the past, provide an affidavit to that effect.

**MYSPACE:**

Authorization for release of all records and photographs to include the email address associated with the account, username/ handle for Plaintiff(s) and/ or Decedent.

If Plaintiff(s) and/or Decedent never had a MySpace account, provide an affidavit from Plaintiff(s) stating same.

If Plaintiff(s) and/or Decedent does not have a MySpace account presently, and have not had one for two years prior to the date of loss, but have had an account in the past, provide an affidavit to that effect.

**TWITTER:**

Authorization for release of all records and photographs to include the email address associated with the account, username/ handle for Plaintiff(s) and/ or Decedent.

If Plaintiff(s) and/or Decedent never had a Twitter account, provide an affidavit from Plaintiff(s) stating same.

If Plaintiff(s) and/or Decedent does not have a Twitter account presently, and have not had one for two years prior to the date of loss, but have had an account in the past, provide an affidavit



to that effect.

**VINE:**

Authorization for release of all records and photographs to include the email address associated with the account, username/ handle for Plaintiff(s) and/ or Decedent.

If Plaintiff(s) and/or Decedent never had a Vine account, provide an affidavit from Plaintiff(s) stating same

If Plaintiff(s) and/or Decedent does not have a Vine account presently, and have not had one for two years prior to the date of loss, but have had an account in the past, provide an affidavit to that effect.

**SNAPPFISH:**

Authorization for release of all records and photographs to include the email address associated with the account, username/ handle for Plaintiff(s) and/or Decedent.

If Plaintiff(s) and/or Decedent never had a Snapfish account, provide an affidavit from Plaintiff(s) stating same.

If Plaintiff(s) and/or Decedent does not have a Snapfish account presently, and have no had one for two years prior to the date of loss, but have had an account in the past, provide an affidavit to that effect.

**SNAPCHAT:**

Authorization for release of all records and photographs to include the email address associated with the account, username/ handle for Plaintiff(s) and/ or Decedent.

If Plaintiff(s) and/or Decedent never had a Snapchat account, provide an affidavit from Plaintiff(s) stating same.

If Plaintiff(s) and/or Decedent does not have a Snapchat account presently, and have not had one for two years prior to the date of loss, but have had an account in the past, provide an affidavit to that effect.

**TIKTOK:**

Authorization for release of all records and photographs to include the email address associated with the account, username/ handle for Plaintiff(s) and/ or Decedent.

If Plaintiff(s) and/or Decedent never had a TikTok account, provide an affidavit from Plaintiff(s) stating same.

If Plaintiff(s) and/or Decedent does not have a TikTok account presently, and have not had one for two years prior to the date of loss, but have had an account in the past, provide an affidavit to that effect.

**LINKEDIN:**

Authorization for release of all records and photographs to include the email address associated with the account, username/ handle for Plaintiff(s) and/ or Decedent.

If Plaintiff(s) and/or Decedent never had a LinkedIn account, provide an affidavit from Plaintiff(s) stating same.

If Plaintiff(s) and/or Decedent do not have a LinkedIn account presently, and have not had one for two years prior to the date of loss, but have had an account in the past, provide an affidavit to that effect.

**ALL OTHER SOCIAL MEDIA NETWORKING SITES:**

Authorization for release of all records and photographs to include the email address associated with the account, username/ handle for Plaintiff(s) and/ or Decedent.

If Plaintiff(s) and/or Decedent have never had any other social networking account, provide an affidavit from Plaintiff(s) stating same.

If Plaintiff(s) and/or Decedent do not have any other social networking account presently, and have not had one for two years prior to the date of loss, but have had an account in the past, provide an affidavit to that effect.

**PLEASE TAKE FURTHER NOTICE** that any alteration or destruction of said social media websites would constitute spoliation of evidence. Please be aware that the laws and rules prohibit destruction of such evidence. Accordingly, please take every reasonable effort to preserve this information.

**PLEASE TAKE FURTHER NOTICE** that failure to comply with these demands will serve as a basis for a motion to preclude Plaintiff upon trial of this action from offering proof relative to such information in the event that the same is not provided in accordance with these demands.

**PLEASE TAKE FURTHER NOTICE** that these are all continuing demands and should any of the information requested become available to or known in the future, then you are required to furnish the same at such time.

**DISCOVERY OF ALL THE ABOVE IS TO BE PRODUCED** within twenty-five (25) days of the date of these demands at the office of: McCabe, Collins, McGeough, Fowler, Levine & Nogan, LLP, 30 Jericho Executive Plaza, Suite 400 C, Jericho, New York 11753.

**COMPLIANCE** may be effectuated by sending true copies of the requested material, where applicable, to undersigned prior to the due date herein.

**PLEASE TAKE FURTHER NOTICE** that upon your failure to comply with these demands, the parties we represent shall make an application to stay all proceedings herein, in addition to sanctions and other relief granted.

Dated: April 26, 2024  
Jericho, New York

Yours, etc.

McCABE, COLLINS, McGEOUGH, FOWLER,  
LEVINE & NOGAN, LLP

By: 

\_\_\_\_\_  
DAVID T. FOWLER

Attorneys for Defendants  
30 Jericho Executive Plaza - Suite 400 C  
Jericho, New York 11753  
(516) 741-6266  
Our File No.: 22SAH277-DTF-A

TO: FERRO, KUBA, MANGANO, P.C.  
Attorneys for Plaintiffs  
825 Veterans Highway  
Hauppauge, New York 11788  
(631) 581-9494  
File No.: P17522-23

24-SAH-297 DTF-A

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
MARLON GONZALEZ BARRERA,

Index No.: 151146/2024

Plaintiff,

-against-

ANTHONY ODIE,

**DEMAND FOR  
PLAINTIFF COUNSEL'S  
W-9 AND INTEGRAL  
DOCUMENTS  
FOR SETTLEMENT**

Defendant.

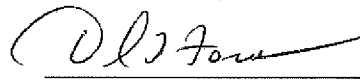
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**PLEASE TAKE NOTICE**, that integral to any settlement and a condition precedent to any settlement payment and part of the settlement documents to be provided to defendants is the presentation to defendants of a fully filled out and executed W-9 executed by plaintiff's law firm.

Dated: April 26, 2024  
Jericho, New York

Yours etc.,

McCABE, COLLINS, McGEOUGH, FOWLER,  
LEVINE & NOGAN, LLP

By:   
\_\_\_\_\_  
DAVID T. FOWLER

Attorney for Defendant  
30 Jericho Executive Plaza - Suite 400 C  
Jericho, New York 11753  
(516)741-6266  
File No.:24SAH277-DTF-A

TO: FERRO, KUBA, MANGANO, P.C.  
Attorneys for PlaintiffS  
825 Veterens Highway  
Hauppauge, New York 11788  
(631) 581-9494  
File No.: P17522-23