

November 18, 2011

Via Certified Mail

John Doe, M.D.
_____ Hospital

Miami, Fl _____

Re: Name: Patient's Name
 D/O/B: DOB
 SSN: *_**_******

NOTICE OF INTENT TO INITIATE LITIGATION
FOR MEDICAL MALPRACTICE

Dear Dr. Doe:

We represent _____ who resides at _____, Miami, Florida _____. We are writing pursuant to Florida Statutes section 766.106. Please consider this letter a formal notice of _____'s intention to initiate litigation for medical malpractice against you. This claim arises out of the care and treatment received by _____ while a patient of yours at _____ Hospital, which care and treatment resulted in permanent injuries to _____ as well as substantial emotional and economic damages.

Please be sure to provide a copy of this letter to all business entities with whom you have any legal relationship. Pursuant to Florida law, notice to you of this claim is also notice to those entities with which you have a legal relationship. By putting you on notice, we intend to notify all legal entities with which you have a legal relationship.

Upon your receipt of this letter, you and your insurer are required to conduct a good faith investigation to determine liability within ninety (90) days from the date of this letter. Any communication or response should be addressed to me.

Enclosed is a copy of the Verified Medical Opinions signed by (expert) _____ pursuant to Florida Statutes section 766.203. Attached please find the following records reviewed by (expert) _____:

- List of records reviewed by the expert
-

Additionally, pursuant to Florida Statutes section 766.106(2)(a), provided below is a list of _____'s health care providers:

_____ 's health care providers during the 2-year period prior to the alleged acts of negligence:

- List of health care providers during the 2-year period prior to the alleged acts of negligence
-

_____ 's health care providers seen subsequent to alleged acts of negligence:

- List of health providers subsequent to the alleged acts of negligence
-

Enclosed you will also find an Authorization for Release of Protected Health Information pursuant to Florida Statutes section 766.1065. **The attached Authorization for Release of Protected Health Information does NOT abrogate or supersede the doctor-patient confidentiality laws under Florida Statutes section 456.057(7)(a) and the Federal Health Insurance Portability and Accountability Act at 42 USC § 201 et seq. and 45 CFR § 164.512, and thus, ex parte communications are forbidden.**

If you carry medical malpractice insurance which provides, or might provide, liability insurance coverage for these claims, please direct this letter immediately to your insurance company. Please consider this letter a demand, pursuant to Florida Statutes section 627.4137, for a statement from their insurance carrier which provides the following information:

1. The name of each of your insurers, including excess coverage;
2. The named insured on each policy which does or may provide coverage to you;
3. The limits of liability coverage on each policy, including excess coverage;
4. A statement of any policy or coverage defenses which such insurer reasonably believes is available to such insurer at the time of filing such statement; and
5. A copy of the policy or policies, including excess coverage.

Please consider this letter a formal request, pursuant to Florida Statutes section 766.106(6)(b)2, for you to produce the following items for inspection and copying:

1. **Color laser copies of all *original* medical records**, medical bills, correspondence, complete hospital charts, pathology reports, pathology specimens, pathology logs, paraffin materials, pathology

slides (originals and recuts), x-rays, radiographic images, MRIs, raw data, audit trail, meta-data, intrapartum flow sheets, electronic records including nursing and EEG tracings and any other tangible data which pertains or relates in any way to the care and treatment or services rendered by you or anyone else to _____ at any time during the years 2010 and 2011.

2. Copies of any and all rules, regulations, policies, procedures, protocols and bylaws, or other written documentation of any type pertaining to the care and treatment provided by you at _____ Hospital which were in effect in 2010, including but not limited to labor and delivery floor, chain of command and/or authority, and/or treatment of pregnant patients. (An index to these may be provided from which a selection can be made).
3. Copies of all documentation pertaining to any notice provided to _____ as to the limited no-fault alternative for birth-related neurological injuries as required and set forth in Florida Statutes section 766.316.
4. Copies of all bills or statements for medical services rendered to or for the benefit of _____ together with all documentation reflecting payment of such bills.
5. Complete copies of all employment contracts, indemnity agreements, cooperation agreements and joint defense agreements between yourself and _____ Hospital or any individual, Professional Association(s), corporation(s), partnership(s), and any other entity(ies) for, or relating to, the provision of services in effect from 2007 to 2010.
6. All photographs, videotape or slides of _____, including all photographs and videotapes of all diagnostic testing, radiographic testing, tissue specimens, wound sites, operations and operative sites.

Also pursuant to Florida Statutes section 766.106(7)(b), please provide responses to the following request for information:

7. Do you contend that the actions or omissions of any person or entity caused or contributed to the injuries of _____? If so, state the full name and address of each such person or entity, the legal basis for your contention, the facts or evidence upon which your contention is based, and whether or not you have notified such person or entity of your contention.

8. Do you contend that any person or entity is or may be liable in whole or in part to you for damages resulting from the injuries of _____? If so, state the full name and address of each such person or entity, the legal basis for the contention, the facts or evidence upon which the contention is based, and whether or not you have notified each such person or entity of the contention.
9. Do you contend that you provided proper notice to _____ as to the limited no-fault alternative for birth-related neurological injuries which notice is required to be provided on forms furnished by the Florida Birth-Related Neurological Injury Compensation Association and which includes a clear and concise explanation of a patient's rights and limitations under the Florida Birth-Related Neurological Injury Compensation Plan? If so, please provide all documentation pertaining to such notice, including but not limited to the dates such notice was provided.
10. List the name, address, telephone number and last known employer of all persons who are believed or known by you to have any knowledge concerning the care and treatment received by _____ while your patients during the year 2010 and specify the subject matter about which the witness has knowledge.
11. Do you know of any statement or remark made by _____ concerning any of her medical care? If so, state the name, address, telephone number and last known employer of each person who heard the statement(s), and the date, time, place and precisely what _____ allegedly said in each statement.
12. Will you provide the opportunity to inspect and examine the original chart which pertains or relates in any way to the care and treatment or services rendered by you or anyone else to _____ at any time in 2010.

Please pay particular attention to requests 7 and 8. We are relying upon your responses to determine whether to place any other health care providers on notice of this claim.

Please understand that, except as to health care providers and other individuals or entities disclosed in response to requests 7 and 8, we intend to ask the Court, should it be necessary to proceed with the filing of a lawsuit, to prohibit any argument and the introduction of any evidence regarding the negligence or fault of others.

You are required to cooperate with us in good faith during the pre-suit screening period. The failure to fully and completely respond to requests 7 and 8 violates the good faith requirement of the law and will justify dismissal of your defenses if it becomes necessary to file a civil action.

The documents requested in this letter are required, pursuant to Statute, to be produced to us within twenty (20) days from the date of this letter.

Very truly yours,

Stuart Weissman

SW/
Encl.