

1 Sample Attorney, Esq. BAR NO. 123456
2 Address
3 City, State Zipcode

4 Attorney for Plaintiff JANICE FROMIN
5
6
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES**
10

11 JANICE FROMIN,)	CASE NO.: SC 123456
12 Plaintiff,)	
13 vs.)	PLAINTIFF'S RESPONSE TO DEMAND FOR
14)	INDEPENDENT MEDICAL EXAMINATION
15 JOE DEFENDANT AND DOES 1 TO 25,)	
16 INCLUSIVE,)	
17 Defendants.)	
18)	

19
20 TO DEFENDANTS AND TO THEIR ATTORNEYS OF RECORD:

21 COME NOW the Plaintiff, JANICE FROMIN, by and through Plaintiff's attorneys of record,
22 Sample Attorney , Esq. and pursuant to the terms and provisions of California Code of Civil
23 Procedure, 2032(c) (5) herewith responds to the Demand for Independent Physical Examination as
24 follows:

25 **RESPONSE TO DEMAND FOR INDEPENDENT EXAMINATION**

26 Plaintiff will submit to the demanded Independent Medical Examination (hereinafter the IME)
27 to be performed by Dr. Joe Ortho, M.D., 9999 Wilshire Boulevard, Suite 222, Beverly Hills, CA, on
28
29

1 July 7, 1999, at 1:30 p.m. Plaintiff will not allow anyone other than Dr. Ortho to conduct the
2 examination. See, Code of Civil Procedure, Section 2032(c)(2).

3 A. HISTORY OF THE UNDERLYING ACCIDENT:

4 Plaintiff will not discuss the manner in which the underlying accident which gives rise to this
5 litigation occurred; other than to describe it in general terms (e.g. electric shock by major home
6 appliance). Should further information as to the mechanics of the accident be necessary to the defense
7 medical examiner, defendant's counsel may take Plaintiff's deposition and provide copies to the
8 doctor or a summary thereof prior to the examination.

9 B. IDENTIFICATION AND PERSONAL INFORMATION:

10 Plaintiff recognizes the medical examiners need to identify the Plaintiff at the time of the
11 examination and will provide the following information:

- 12 1. Full name;
- 13 2. Date of birth;
- 14 3. Current residence address;
- 15 4. Current drivers' license; and/or
- 16 5. Social Security number.

17 Plaintiff will not provide the defense medical examiner with additional personal information
18 including, but not limited to, the following:

- 19 1. Residence telephone number;
- 20 2. Medical insurance information or other insurance information;
- 21 3. Employment history.

22 The basis of this limitation is that the request of the above-listed information would invade
23 Plaintiff's right of privacy, is impermissibly overbroad and therefore oppressive, burdensome, and
24 irrelevant to the subject matter of this action. See, Britt vs. Superior Court (1978) 20 Cal. 3d844.

25 C. MEDICAL HISTORY:

26 Plaintiff may not be compelled to create any items of potential documentary evidence and will
27 not fill out any charts, new patient records, forms or histories that may be requested or provided by the
28 defense medical examiner. The basis of this objection is that it is oppressive to require Plaintiff to
29

1 complete any written forms as opposed to answering questions orally. To require Plaintiff to complete
2 written forms would violate Plaintiff's right not to create items of demonstrative evidence for
3 defendant's use.

4 Plaintiff recognizes the examiners need to obtain a relevant medical history and will answer
5 any reasonable relevant medical history questions posed by the examiner. Plaintiff will not provide a
6 written medical history. Should such a written medical history be required, defendant's counsel may
7 provide either copies of the Plaintiff's deposition and medical records or summaries thereof prior to
8 the examination.

9 Other than questions seeking reasonable, relevant medical history, all other medical history
10 questions will be objected to as invading Plaintiff's right of privacy, being impermissibly overbroad,
11 oppressive, burdensome and irrelevant to the subject matter of the action in that such questions seek
12 disclosure of Plaintiff's medical history which, except as answered, does not reasonably relate to the
13 injuries which are the subject of this action. See, Britt vs. Superior Court (1978) 20 Cal.3d 844.

14 D. FINANCIAL RESPONSIBILITY:

15 Plaintiff will not assume of financial responsibility for any of the medical billings arising as a
16 result of this DME nor will Plaintiff execute an assignment of benefits forms.

17 E. LIMITATION OF X-RAYS AND DIAGNOSTIC TESTS:

18 Absent a court order compelling it, Plaintiff will not submit to any additional x-rays of that
19 area of the body that may be requested by the Independent Medical Examiner.

20 Pursuant to Code of Civil Procedure, Section 2032(c)(2), Plaintiff will not submit to any
21 painful, protracted or intrusive studies or tests and specifically refuses to submit to any additional X-
22 rays, EEG, EMG, blood test or urinalysis.

23 F. TIMING OF THE EXAMINATION:

24 Plaintiff will not be unduly inconvenienced by the defendant's demanded IME.

25 Plaintiff will appear at the examiner's office on May 6, 1999 at the requested appointment time
26 of 3:45 p.m.

1 If the IME has not commenced by 30 minutes after time scheduled, Plaintiff will consider this
2 protracted delay to be a waiver of defendant's right to the IME and will leave the medical examiner's
3 office, pursuant to California Code of Civil Procedure, Section 2032(c)(2).

4 /

5 /

6 /

7 G. ATTENDANCE OF ATTORNEY'S REPRESENTATIVE:

8 "The attorney for the examinee... or that attorney's representative shall be permitted to attend
9 and observe any physical examination conducted for discovery purposes, and to report... by audio tape
10 any words spoken to or by the examinee during any phase of the examination." [CCP 2032(g)].

11 Pursuant to Section 2032 (g)(1), a representative from PRIME whose offices are located at
12 15720 Ventura Blvd., Suite 510, Encino, CA 91436, are designated by the as their authorized
13 representative for purposes of observing this medical examination.

14 H. DEMAND FOR PRODUCTION OF REPORT:

15 Pursuant to the provisions of California Code of Civil Procedure, Section 2032 (h), Plaintiff
16 demands a copy of the detailed written report of the IME setting out the history, examinations,
17 findings, including the tests and results of all tests made, diagnoses, prognoses, and the conclusions of
18 the defense medical examiner, within thirty (30) days thereafter. See, *Nahabedian vs. Superior Court*
19 (1989) 209 Cal. APP 3d296, 257 Cal. Rptr. 54.

20
21 If you are not agreeable with the above conditions, please contact our office within ten (10)
22 days from the date of this pleading. Thank you for your professional courtesy and cooperation in this
23 regard.

24
25 DATED:

26
27 By: _____
28 Sample Attorney, Esq.
29 SBN: 123456
Attorney for Plaintiff,

JANICE FROMIN

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29