

SAMPLE ORDER TO SHOW CAUSE FOR INFANT COMPROMISE PROCEEDING

At a Settlement Conference Part of the Supreme Court of the State of New York, held in and for the County of Westchester located at the Honorable Richard J. Daronco Westchester County Courthouse, 111 Dr. Martin Luther King, Jr. Boulevard, Courtroom 1600, White Plains, New York 10601 on the ___ day of _____, 20__.

P R E S E N T :

HON. JOAN B. LEFKOWITZ, J.S.C.

_____X

Jane/John Doe as mother/father and natural guardian of (infant's initials), an infant under/over the age of fourteen (14) years,

ORDER TO SHOW CAUSE

Index No. 12345/2014

Plaintiffs/Petitioners,

- against -

XYZ,

_____X
Defendant/Respondent.

Upon the affidavit/petition of _____ Jane/John Doe as mother/father and natural guardian of (infant's initials), an infant under/over the age of fourteen (14) years, sworn to the _____ day of _____, 20__ ; [if the infant is over 14 years of age, his/her affidavit and consent must be attached]; the affirmation of _____, Esq., of the firm of _____, attorneys for _____, the report/affirmation of _____, M.D., and the exhibits annexed thereto [such as medical records, letters from insurance companies, etc.] and upon all the pleadings and proceedings heretofore had herein;

LE T the defendant/respondent and/or defendant's/respondent's counsel and/or insurer, the Department of Social Services for the County of Westchester [IF the infant was not a resident of Westchester County at the time of the injury or treatment, please insert the appropriate Social Services Department) and the New York State Medicaid Inspector General show cause at the Settlement Conference Part of the Supreme Court of the State of New York held in and for the

County of Westchester located at the Hon. Richard J. Daronco Westchester County Courthouse, 111 Dr. Martin Luther King, Jr. Blvd., Courtroom 1600, White Plains, New York 10601, before the Hon. Joan B. Lefkowitz, J.S.C., on the ____ day of _____, 20__ at 9:15 a.m. or as soon thereafter as counsel can be heard, for an Order permitting the compromise of this action upon the terms and conditions contained in the proposed infant's compromise order attached hereto.

Sufficient cause appearing therefor, let service of a copy of this order, together with the papers upon which it is based, be made by overnight mail/delivery on or before the ___ day of _____, 20__, upon defendant/respondent and/or defendant's/respondent's counsel and/or insurer at _____ [IF defendant has not consented to E-Filing on NYSCEF], **John M. Nonna, Esq.**, Westchester County Attorney, Department of Law, 148 Martine Ave., Sixth Floor, White Plains, New York 10601 on behalf of the Department of Social Services for Westchester County [OR if infant-plaintiff does not reside in Westchester County, the appropriate County Department of Social Services with address) and Health Management Services ("HMS"), Estate & Casualty Recovery Unit, 2 Winners Circle, Ste. 202, Albany, NY 12205 and the New York State Medicaid Inspector General, 800 North Pearl St., Albany, NY 12204 be deemed good and sufficient service.

[If defendant/respondent has consented to E-Filing on NYSCEF include:]

ORDERED that, since defendant/respondent has consented to Electronic Filing on NYSCEF and this Order to Show Cause will be e-filed to the NYSCEF website, plaintiffs are not required to serve a hard copy of this Order to Show Cause and supporting papers on defendant/respondent.

ORDERED that, plaintiffs shall serve lien requests upon the lien agencies named herein with the Order to Show Cause and [If infant resided in Westchester County at the time of the injury or treatment] shall serve the lien request upon the Westchester County Law Department by email to LienSearch@WestchesterGov.com within 7 days of entry of this Order.

ORDERED that, answering papers, if any, shall be filed/ e-filed to the NYSCEF website on or before _____, 20__ at 12:00 P.M.

ORDERED that, proofs of service of this Order and the lien requests shall be filed/ e-filed to the NYSCEF website on or before _____, 20__ at 12:00 P.M.

ORDERED that, on or before the return date, counsel for the Department of Social Services for _____ County shall file a lien letter or letter indicating that the County did not receive a lien request.

ORDERED that, HMS and/or the Medicaid Inspector General shall serve a lien letter on plaintiffs' counsel prior to the return date.

ORDERED that, plaintiffs shall file any lien letters received on NYSCEF on or before the return date.

APPEARANCES BY THE PARTIES AND THEIR RESPECTIVE COUNSEL ARE **NOT REQUIRED** ON THE RETURN DATE. THE RETURN DATE IS FOR THE FILING OF LIEN INFORMATION ONLY.

NO HEARINGS WILL BE HELD ON THAT DATE. The Court will schedule a hearing after all required supporting documents are filed and reviewed.

HON. JOAN B. LEFKOWITZ, J.S.C.

NOTE: Rules and Instructions for an Infant/Incapacitated Person Compromise can be found on the Ninth Judicial District's website under "Differentiated Case Mgmt - DCM" and "Protocol/Rules" at <http://ww2.nycourts.gov/courts/9jd/diffCaseMgmt.shtml> (click on "Differentiated Case Mgmt – DCM"). Sample forms for a compromise application, including a sample stipulation of settlement, sample orders and lien request forms for Westchester County and NYC/HRA, may be found on the website under "Forms."

Revised 11-25-19