

IN THE _____ COURT OF _____ COUNTY
STATE OF _____

_____)	
)	
)	
Petitioner/Plaintiff,)	
)	
Vs.)	NO. _____
)	
_____)	
Respondent/Defendant)	
)	

**DEFENDANT'S MOTION TO COMPEL PLAINTIFFS
TO PRODUCE DOCUMENTS AT TRIAL**

COMES NOW DEFENDANT, _____, by and through his attorneys of record herein, and files this his Motion to Compel Plaintiffs to Produce Documents at Trial, and would show unto the Court the following:

1. Plaintiff, _____, sustained facial cuts in this accident which resulted in some facial scarring. This is the main aspect of her claim for personal injuries. On the _____ day of _____, 20____, _____ chose to undergo a voluntary and elective scar revision surgery performed by _____. _____ testified that _____'s facial scars look worse now than they did before the surgery because of the surgical incisions. _____ also testified that the scars look worse now as a result of the surgery than they will look six months from now. The Defendant previously moved for a trial continuance on the ground that he would suffer prejudice if _____ was allowed to create worse looking injuries by having elective surgery shortly before trial and then exhibit to the jury injuries which

appear worse than they did before the surgery and worse than they will appear after the surgical wounds have healed.

2. The Plaintiff intends to introduce into evidence photographs of her facial wounds shortly after the accident occurred. The Plaintiff will also show the jury in Court what her face looks like after the surgery was performed. The Defendant wants the jury to see what Plaintiffs scars looked like within the several months before surgery. During the recent deposition of _____ which was taken on the _____ day of _____, 20____, he was asked the following questions and gave the following answers regarding photographs of _____:

Q. You've got some family pictures taken with your kids and so forth before this operation?

A. No sir.

Q. You've got some taken at the hospital after your child was born?

A. I think I do. Yeah.

Q. And you've got some when she came home, of your wife?

A. I think so.

Q. We request that we be furnished with copies of the photographs, family photographs, taken of _____ before the operation, immediately before the operation, or within a three month, four month period before the operation, so that we can show to the jury what the scars looked like before the operation.

3. The Plaintiff, _____, has executed the signature page on his deposition without any changes. A true and correct copy of the excerpt from _____ deposition concerning the photographs of his wife before the surgery is attached hereto and incorporated herein by reference as Exhibit 1A.

4. The Defendant requests the Court to compel the Plaintiffs to produce the photographs mentioned by _____ in his deposition which reflect the facial scarring of _____ before her elective surgery. These photographs are extremely relevant and go to the very heart of _____'s claim for damages due to facial scarring and the Defendant's defense that the scars were not as bad as _____ claims they were before surgery. Clearly, if the Plaintiff is allowed to exhibit the condition of her facial scars after an elective surgical procedure which has indeed made her scars appear to be worse than they were before the surgery, the Defendant should be entitled to show the jury what the scars looked like before the surgery took place. _____ had her second child the _____ day of _____, 20____. It is hard to imagine any family not taking photographs of mother and baby on such a joyous occasion. _____ has admitted that these photographs exist and this is further confirmed by the executed signature page to his deposition transcript indicating no changes to his testimony.

WHEREFORE, PREMISES CONSIDERED, Defendant, _____, respectfully request the Court to enter an Order compelling the Plaintiffs to produce the photographs taken of _____ shortly before her elective surgery for the reasons stated herein.

Respectfully submitted,

Dated: _____

Name:
Title:
Address:
Address:

City, State, Zip:
Phone:
Fax:
E-Mail:
Attorney No.:

CERTIFICATE OF SERVICE

I, _____, do hereby certify that I have this day mailed,
U.S. Mail, postage prepaid, a true and correct copy of the above and foregoing to
_____, at the following address;

THIS the ____ day of _____, 20____.