



Prevent Identity Theft

New York's Civil Practice Law and Rules (CPLR) Section 3041 provides for a Bill of Particulars in any lawsuit. A Bill of Particulars sets forth more details about the claim being made (usually the claim that is made by the plaintiff or, in an accident case, the injured person).

CPLR Rule 3043 provides that in a personal injury lawsuit, the defendant may demand of the plaintiff:

- ◆ The date and time of the accident and its location;
- ◆ General statement of the claimed acts of negligence;
- ◆ Questions about notice, where notice of a defective condition applies;
- ◆ Length of time in bed and house and time out of work;
- ◆ Expenses for doctors, lost wages, hospitals and such.

Demanding and serving a Bill of Particulars is fairly routine and occurs in 99% of accident cases. However, most defense law firms also ask that the Bill of Particulars provide the plaintiff's address, date of birth and social security number. Plaintiff's law firms routinely provide this information in their client's Bill of Particulars and mail it to the defense law firm.

My main concern is not that someone in a defense law firm may see this information in a Bill of Particulars.

However, while a Bill of Particulars is not routinely filed in the courthouse or with the court, if there is some kind of motion or request made to a judge for relief, the Bill of Particulars may end up in the courthouse file as part of the paperwork, where it becomes a public record for anyone to see. This does concern me, as my client's personal information may pass through the hands of, and be accessible to, many strangers -- not just court personnel, but members of the public as well.

I've found a simple solution. I send the plaintiff's social security number and date of birth in a separate cover letter with the Bill of Particulars, where that information is unlikely to ever end up before the Court or in the courthouse file. Thus is client confidentiality preserved and potential identity theft avoided.

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