

**URGENT LEGAL MATTER: PRE-SUIT DEMAND PURSUANT TO [Insert State Statute if Applicable]**

**Date:** [Insert Date]

**TO:**

[Name of Physician/Surgeon]

[Name of Hospital/Facility]

[Address]

[City, State, Zip Code]

**RE:**

**Patient Name:** [Insert Patient Name]

**Date of Birth:** [Insert DOB]

**Date of Incident:** [Date of original surgery/procedure]

**Location of Incident:** [Name of Hospital/Facility]

Dear [Name of Healthcare Provider/Risk Management],

Please be advised that this office represents [Patient Name] in a claim for medical malpractice resulting from a retained foreign object following a surgical procedure performed on or about [Date].

**I. FACTUAL BACKGROUND**

On [Date], the patient underwent a [Name of Procedure] at [Facility Name], performed by [Surgeon Name]. Subsequent to this procedure, the patient experienced [List symptoms, e.g., chronic pain, infection, etc.]. On [Date of Discovery], imaging/diagnostic tests revealed that a [Type of object, e.g., surgical sponge, needle, fragment] was left inside the patient's body.

**II. LIABILITY**

Under the doctrine of *res ipsa loquitur* and established medical standards of care, the failure to remove all surgical instruments and materials from a patient's body cavity constitutes a per se breach of the standard of care. There is no clinical justification for the retention of [Object Name] following the closure of the surgical site.

**III. DAMAGES**

As a direct and proximate result of this negligence, [Patient Name] has suffered significant damages, including but not limited to:

- The necessity of a secondary surgical procedure to remove the object;
- Physical pain and suffering;
- Emotional distress and anxiety;
- Medical expenses for corrective treatment;
- Lost wages and diminished earning capacity.

#### **IV. DEMAND**

We are currently in the process of finalizing our expert reviews. However, in the interest of resolving this matter prior to the commencement of formal litigation, we hereby demand the sum of \$[Insert Dollar Amount] to settle all claims against you. This offer is made for settlement purposes only and is protected under [Insert Local Evidence Rule, e.g., Rule 408].

#### **V. PRESERVATION OF EVIDENCE**

You are hereby instructed to preserve all medical records, intraoperative logs, surgical counts, imaging, and the physical retained object itself (if in your possession) related to this matter. Failure to do so may result in a claim for spoliation of evidence.

Please respond to this demand within [Insert Number, e.g., 30] days. We look forward to your prompt response.

Sincerely,

[Your Name/Law Firm Name]

[Phone Number]

[Email Address]