

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

Docket No.: 05-40170 FDS

Stephanie Hofer and Douglas Hofer,)
Plaintiffs,)
)
v.)
)
The Gap Inc., Expedia, Inc., and)
Turtle Beach Towers,)
Defendants.)

PLAINTIFFS' RULE 26 DISCLOSURE

Plaintiffs, Stephanie and Douglas Hofer, hereby provide the following automatic disclosure pursuant to Fed. R. Civ. P., Rule 26(a)(1) of the Federal Rules of Civil Procedure and Rule 26.2 of the Local Rules of the United States District Court for the District of Massachusetts.

Plaintiffs have consulted all sources known and available to Plaintiffs in preparation of this statement. Plaintiffs reserve the right to supplement, augment, and/or modify this statement based on information not yet known or available.

(A): IDENTIFICATION OF PERSONS HAVING DISCOVERABLE INFORMATION

The name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment, identifying the subjects of the information:

1. Stephanie Hofer: 193 Hill Street, Leominster, MA 01453:
knowledge of the averments made in Plaintiffs' Complaint
2. Douglas Hofer: 193 Hill Street, Leominster, MA 01453
knowledge of the averments made in Plaintiffs' Complaint
3. Lauren M. Pompei:
knowledge of the averments made in Plaintiffs' Complaint

4. Carrie LeBlanc:
knowledge of the averments made in Plaintiffs' Complaint
5. Henry McKenzie: Free Hill P.O., Saint Mary, Jamaica
6. knowledge of the averments made in Plaintiffs' Complaint
7. Medical providers as stated below in subsection (B).

(B): DESCRIPTION OF DOCUMENTS SUPPORTING PLAINTIFFS' CLAIMS

A copy of, or a description by category and location of, all documents, data compilations, and tangible things that are in the possession, custody or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment.

1. Medical Records (By Category)

1. Doctor David Lhowe, M.D.(surgeon), Mass General Hospital
2. Kimon Zachary, M.D. (infectious disease), Mass General Hospital
3. Doctor Daniella Hord, M.D. (attending physician), Mass General Hospital
4. Doctor Ingrid Bassett, M.D. (infectious disease), Mass General Hospital
5. Doctor Robert Fraser, M.D. (PCP), Leominster Hospital Medical Building –
Health Alliance
6. Doctor Milan Stojanovic, M.D. (neurology dept.), Mass General Hospital
7. Doctor Ron Kulich, M.D. (psychology), Mass General Hospital
8. Doctor Sarah Reiff-Hekking, M.D. (pain management), University of
Massachusetts Medical Center
9. Doctor Elaine Borgen, M.D. (pain management), University of Massachusetts
Medical Center
10. Doctor Jen LeBlanc, M.D. (physical therapist), Worcester County
Rehabilitation – Health Alliance

11. Doctor Bill Chapman, M.D. (physical therapist), Worcester County
Rehabilitation – Health Alliance.

12. Dr. Benton Barnes (orthopedic resident), St. Ann's Bay Hospital, St. Ann's
Bay P.O., St. Ann, Jamaica, W.I.

To the extent that Plaintiff has medical records in her possession currently they are attached hereto as Exhibit A. Those medical records not included in Exhibit A are in the custody of the medical providers listed above. Plaintiff, however, understands her obligation to supplement and will produce additional medicals records to counsel of record for the Defendants as they are received.

2. Prescribed Medications by Category

a. Pain Medications

1. Neurontin
2. Celebrex
3. MS Contin
4. Dilaudid
5. Zanaflex
6. Sinemet
7. LidoDerm Patches
8. Emla Cream
9. Miacalcin Spray

b. Psychiatric Medications:

1. Cymbalta
2. Ativan
3. Seroquel
4. Lamictal

Prescriptions are referred to throughout Plaintiff's medical records which are

located with the medical providers listed above to the extent they are not included within Exhibit A.

3. Photographs of:

1. Plaintiff, Stephanie Hofer, before the incident illustrating her appearance
2. Plaintiff, Stephanie Hofer, after the incident illustrating her appearance
3. Plaintiff, Stephanie Hofer's leg, ankle, and foot illustrating the injury

Photographs are located at the office of Plaintiff's counsel, Law Offices of Russo & Minchoff, 123 Boston Street, Boston, MA 02125. Plaintiff, however, agrees to make copies of such photographs and furnish same to counsel of record for Defendants to the extent that they are not attached hereto as Exhibit B.

4. Employment Records:

Plaintiff, Stephanie Hofer's employment history as a dental hygienist from 2003 until date of incident.

5. Old Navy Credit Card Receipts:

Said credit card receipt is in the possession of the Gap, Inc. and will be furnished by counsel for the Gap, Inc. The credit card receipt will reflect the date of purchase of the sandal and other identifying information.

6. 3 Pairs of Identical Old Navy Sandals:

Said sandals are located at the office of Plaintiff's counsel, Law Offices of Russo & Minchoff, 123 Boston Street, MA 02125. Plaintiff agrees to make the sandals available for inspection during business hours upon proper request.

(C): DAMAGE CALCULATION

A computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered.

1. Injuries, which include but are not limited to:

- A. severe lacerations to her left shin, ankle, and foot;
- B. severing of major left leg artery;
- C. tearing of a muscle in her left leg along with three tendons;
- D. permanent damage to the nerves in her left leg and foot;
- E. 90% loss of functionality in left leg below knee;
- F. requirement of leg brace worn daily;
- G. large permanent scars;
- H. Use of walking apparatus for assistance.

2. Past, Current and Future Medical Treatment and Expenses:

- A. Since the accident, Plaintiff has undergone 3 surgeries;
- B. Presently treatment includes but is not limited to the above listed medications as well as spinal cord stimulating treatments and continuing physical therapy;
- C. At present, Plaintiff's medical expenses approximate \$100,000.00;
- D. Plaintiff will continue to incur medical expenses as her treatment is ongoing; Plaintiff will continue to require physical therapy and pain management. Future surgeries may be necessary.

3. Diminished Earnings and Anticipated Future Diminished Earnings:

- A. Plaintiff, Stephanie Hofer, earned an annual salary of \$25,000 as a dental hygienist prior to the accident and \$3,000.00 engaging in part time employment.
- B. Since the incident, Plaintiff has not been able to return to work and presently qualifies as disabled.

4. Loss of Consortium

- A. Plaintiff's doctors have advised her against becoming pregnant while she is required to take the medications prescribed as listed above.
- B. Plaintiff, Douglas Hofer, has lost his wife's society, services, sexual relations and conjugal affections, which includes companionship, comfort, love and solace.

Plaintiffs reserve the right to supplement this response.

(D): INSURANCE AGREEMENTS

Not Applicable

(E): EXPERT WITNESSES

Plaintiff has not yet determined what experts they may call to testify at the time of trial. Plaintiffs reserve their right to supplement this response in accordance with the governing rules.

(F): DISCLOSURE OBLIGATIONS

Plaintiffs recognize their continuing duty to disclose as such additional discoverable information, documents, data compilations, and/or tangible things that are relevant are acquired by the Plaintiffs.

Respectfully Submitted,
Plaintiffs,
By their attorneys,

 /s/ India L. Minchoff, Esq.
India L. Minchoff, Esq. (652456)
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Boston, MA 02125
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CERTIFICATE OF SERVICE

I, India L. Minchoff, Esq., hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on February 15, 2006.

 /s/ India L. Minchoff, Esq.