

SETTLEMENT DEMAND LETTER

January 29, 2019

Insurance Adjuster
United Insurance Company
P.O. Box 12345
Salt Lake City, UT 84109
Phone: (801) 234-5678
Fax: (801) 234-5679
E-mail: insurance.adjuster@uicclaims.com

Re:	Claim Number:	ABC-12345678-9
	Your Insured:	Client Insured
	Our Client:	Injured Client
	Date of Injury:	February 23, 2018

Dear Mr. Adjuster,

We have now received the medical bills and reports which enable us to make a settlement demand for and on behalf of our client, Mr. Injured Client, in this manner. Documentation, including the medical bills and reports, are enclosed within this Demand.

This Demand is in support of Mr. Client's claim against your insured, Client Insured, for the injuries Mr. Client sustained on February 23, 2018, due to the negligence of your insured. Detailed below is compelling evidence of your insured's negligence, as well as the foundation this sets for the damages demanded in consideration of Mr. Client's injuries, grievances, pain, and suffering. *This letter is for settlement purposes only.*

FACTS

On February 23, 2018, at approximately 10:25 p.m., Mr. Client was driving East on 123 Precarious Road in Salt Lake City, Utah;¹ there was snow on the ground at that time.² Mr. Client was approaching an intersection, at which he had a green light and the right-of-way.³ Accordingly,

¹ See Exhibit A (Police Report)

² See Exhibit B (Fact Finding Form from initial consultation with Dr. Spine at Good Spine Medical Center.), at 3 (Auto Accident Section) (indicating in the "Road Conditions" section that there was snow.).

³ See Exhibit A, at 2 (reporting that "[Mr. Client] . . . had the green light . . ." and that "I later told Ms. Insured . . . [that] she would be identified as the driver at fault, since she *failed to yield the right of way* while turning into the intersection" (emphasis added).).

Mr. Client proceeded straight into the intersection.

At approximately the same time (10:25 p.m.), your insured was facing West in the same intersection on 123 Precarious Road, preparing to turn left and head South from 123 Precarious Road to Main Street.⁴ The left turn was into oncoming traffic, which traffic Mr. Client was a part of. Your insured had a green light but did not have the right-of-way; as such, she had to yield to those in oncoming traffic. However, she “thought”⁵ she had enough time to complete the turn before Mr. Client passed her, and subsequently attempted the left turn. As she turned, your insured collided with Mr. Client.

As a result of said collision, Mr. Client’s vehicle was totaled, and Mr. Client suffered extensive bodily injuries.

LIABILITY

Given that your insured was attempting to turn left at a green light into oncoming traffic, she had a duty to yield the right-of-way to Mr. Client, as he was driving his vehicle lawfully within the intersection. This is pursuant to Utah Code § 41-6a-305(2)(a)(ii)(A), which states that “[t]he operator of a vehicle facing a circular green signal, including an operator turning right or left . . . shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time the signal is exhibited.”

The fact that a collision occurred between your insured and Mr. Client, given the circumstances, is *prima facie* evidence of your insured’s failure to yield the right-of-way to Mr. Client. Furthermore, to bolster our claim of liability on your insured’s part, it is mentionable that Officer Goodcop reported that your insured was the driver at fault.⁶

Because Utah Code § 41-6a-305(2)(a)(ii)(A) is designed to prevent collisions from occurring between left turning vehicles and oncoming traffic, and since Mr. Client at the time of the incident was a licensed motorist whom the code was intended to protect, your insured’s violation of the code makes her Negligent Per Se pursuant to Restatement (3d) on Torts § 14, which states that “[a]n actor is negligent if, without excuse, the actor violates a statute that is designed to protect against the type of incident the actor’s conduct causes, and if the incident victim is within the class of persons the statute is designed to protect.” Therefore, your insured is liable under this premise as well.

Furthermore, but for your insured’s negligence in not yielding the right-of-way to Mr. Client, the collision would not have occurred as it did, and could have been avoided. Indeed, your insured’s negligence is the only tortious factor at play in this situation. Moreover, there was nothing preventing your insured from fulfilling her duty to yield; no extrinsic forces compelled her to turn left instead of yielding. Therefore, this makes your insured the actual cause of Mr. Client’s injuries.

⁴ See *id.* (reporting that “[Ms. Insured] was facing West in the intersection and attempted to turn left and head South from 3300 South Main Street.”).

⁵ See *id.* (reporting that “[Ms. Insured] said she [*sic*] had the green light also and she *thought* she had enough time to cross the [i]ntersection . . .” (emphasis added)).

⁶ See *id.* (reporting that “I later told [Ms. Insured] . . . [that] she would be identified as the driver at fault . . .”); see also, *supra* note 3.

Your insured had a duty to prevent the foreseeable risk of harm associated with her conduct. Given that your insured saw or should have seen Mr. Client's vehicle before attempting the left turn, as well as the fact that she was or should have been aware of the dangers associated with turning into oncoming traffic, the collision was foreseeable. Furthermore, your insured stated that she attempted the left turn because she "thought" she had enough time;⁷ indeed, to prevent the collision from occurring as it did, your insured simply had to (and, indeed, *should have*) wait(ed) to make the turn until after she was *reasonably sure* she had enough time to do so safely. Therefore, since your insured saw or should have seen Mr. Client's oncoming vehicle (as well as the oncoming traffic in general), the risk of harm was foreseeable; and, because your insured could (and should) have waited until she was sure she had enough time, the risk of harm was preventable. As such, your insured was negligent of her duty to prevent the foreseeable risk of harm and is, consequently, liable. The element of foreseeability in this case, as has been heretofore explained, makes your insured the clear proximate cause of Mr. Client's injuries.

Furthermore, your insured should have exercised more caution than normal in this circumstance, since there was snow on the ground.⁸ A reasonable person would have considered the inherently increased risks associated with snowy roads, and would have exercised a greater level of caution when performing a left turn into oncoming traffic. Your insured also should have been more cautious considering that it was nighttime when the collision occurred;⁹ a reasonable person of ordinary prudence in the same situation would have recognized the inherently increased risk of nighttime driving, and, consequently, would have exercised a greater level of caution as a result.

To effectively calculate your insured's cost of preventing the risk of harm in this case, we used the Learned Hand Formula, which takes into account (1) the probability of harm (P), (2) the gravity of the potential harm (L), and (3) the burden of precaution that would have had to be borne by your insured to avoid the possible risk (B). The Learned Hand Formula explains that if $P \times L > B$, then a defendant is liable for the damages resulting from his or her conduct.

Given the circumstances immediately preceding the collision, there was a high probability of harm (P) associated with your insured's conduct in not yielding to the oncoming traffic; i.e., the situation was such that if your insured did not time her left turn precisely, she would collide with the oncoming traffic. Furthermore, the gravity of potential harm (L) was also high, considering the amount of traffic and the type of potential injuries reasonably associated with conduct such as your insured's conduct at the time. Finally, the burden of precaution (B) was low, as your insured simply had to yield until Mr. Client passed; the burden of precaution was a few moments of your insured's time and attention, which she had a duty to give as the yielding driver. As such, your insured had a very low cost to prevent the risk of harm in this case, and the probability of harm in conjunction with the gravity of harm clearly outweighs it by a disproportionate margin. Therefore, according to the Learned Hand Formula, your insured had a duty to prevent the foreseeable risk of harm from occurring (which duty she breached), and is, therefore, liable for Mr. Client's injuries and other associated damages.

⁷ See *supra* note 5.

⁸ See *supra* note 2.

⁹ See Exhibit A, at 1 (reporting the time of the incident as 22:25:00 military time, or 10:25 p.m.; therefore, it is clear that it was nighttime.).

INJURIES

Mr. Client has suffered significant physical, mental, and emotional injuries due to the negligence of your insured. Enclosed within this Demand are the medical reports of Mr. Client's injuries.

Mr. Client began receiving medical treatment from Good Spine Medical Center on March 13, 2018.¹⁰ Mr. Client sought treatment due to "unremitting pains in spite of rest and use of the cervical col[lar] given to stabilize his neck and the over the counter medicines . . ." ¹¹ he took. Dr. Good Spine added that "his injuries and findings were consistent with the mechanism of the crash."¹²

Dr. Spine diagnosed Mr. Client's injuries as follows:¹³

1. S13.4XXA – Sprain of ligaments of cervical spine.
2. S16.1XXA – Strain of muscle, fascia and tendon at neck.
3. M54.12 – Cervical radiculopathy.
4. M50.0 – Cervical disc disorder with myelopathy.
5. M50.20 – Cervical disc displacement, w/o myelopathy.
6. S23.3XXA – Sprain of ligaments of thoracic spine.
7. S29.012A – Strain of muscle tendon of back wall of thorax.
8. S33.5XXA – Sprain of ligaments of lumbar spine.
9. S39.012A – Strain of muscle, fascia tendon of lower back.
10. S43.422A – Sprain of left rotator cuff capsule.
11. M15.622 – Stiffness of left elbow.
12. M25.522 – Pain in left elbow.

In addition, Dr. Spine noted on March 15, 2018, that Mr. Client's fingers had hypoesthesia.¹⁴

On April 6, 2018, Mr. Client received an MRI, performed by Dr. Lookat Yourback.¹⁵ Dr. Yourback gave the following interpretation of the MRI.¹⁶

1. C5-C6 central/paracentral disc protrusion indenting the thecal sac without evidence

¹⁰ See Exhibit C (Good Spine Medical Center medical records), at 9 (recording date of initial consult as 03/13/18).

¹¹ *Id.* at 1.

¹² *Id.*

¹³ *Id.*

¹⁴ See *id.* at 9 (examination notes from 3/15/18) (stating that "Mr. Client's prognosis as of today is good barring any additional insult and the resolution of his displacement of disc symptoms he is experiencing in his neck and down his left arm to his hand where *his fingers have hypoesthesia*" (emphasis added)).

¹⁵ See Exhibit D (MRI Medical Center medical records).

¹⁶ *Id.*

of neural compression.

2. Shallow noncompressive disc protrusion at C3-C4 and C4-C5.

In his treatment notes, Dr. Spine mentioned that Mr. Client's MRI results revealed "three levels of bulging and protruding discs. At C5-C6 the protrusion of the disc indents the thecal sac which is likely the reason for his radicular pain and slower than normal resolution of his cervical symptoms."¹⁷

A. PAST MEDICAL EXPENSES

Copies of Mr. Client's medical bills are enclosed within this Demand. The following is an itemization of the reasonable and essential medical expenses necessitated as a direct result of the negligence of your insured:

Provider	Type of Service	Amount
MRI Medical Center – Dr. Lookat Yourback	MRI Cervical Spine	\$1,550.00
Good Spine Medical Center – Dr. Good Spine	Chiropractic Treatment	\$3,487.00
PAST MEDICAL EXPENSES TOTAL:		\$5,037.00

B. FUTURE MEDICAL EXPENSES

Regarding future treatment, Dr. Spine stated that Mr. Client will need from ten to twelve rehabilitation visits to manage flare ups "when" they occur.¹⁸ Therefore, according to Dr. Spine, Mr. Client will have flare ups sometime in the future. As such, it is reasonable and essential to demand compensatory damages to cover the costs of Mr. Client's future treatment. The precise monetary amount to cover these costs was calculated by using the following information:¹⁹

- Mr. Client attended fifteen appointments at Good Spine Medical Center for the injuries he sustained due to the negligence of your insured.
- These fifteen appointments totaled \$3,487, or an average of \$232.47 per appointment.

Since it is reasonable to assume that Mr. Client's future appointments will cost a similar amount, we calculate that ten to twelve future rehabilitation appointments will cost Mr. Client between \$2,324.7 and \$2,789.60. Therefore, we consider \$2,789.60 to be the sum of money required to adequately treat Mr. Client's future flare ups.

Furthermore, Dr. Spine stated that Mr. Client will need these future appointments to "manage any *episodes* of flare up when *they* occur" (emphases added).²⁰ Therefore, according to Dr. Spine, Mr. Client will have more than one flare up in his future. However, Dr. Spine does not specify how many flare ups are likely to occur, only that there will be more than one. As such, we demand, in total, \$5,579.28 for the future treatment of Mr. Client's flare ups, as said amount is the cost of treating two flare ups. In other words, twelve appointments per flare up for a total of at

¹⁷ Exhibit C, at 11 (examination notes from 04/09/18).

¹⁸ See *id.* at 2 (stating that "[f]uture treatment is not scheduled but 10-12 visits would be sufficient to manage any episodes of flare up when they occur" (emphasis added)).

¹⁹ See Good Spine Medical Center medical billing records herewith attached in this Demand.

²⁰ Exhibit C, at 2; see also, *supra* note 18.

least twenty-four future appointments, each appointment costing, on average, \$232.47. Mr. Client may have more than two flare ups, but he will certainly have at least two. It is just an equitable that the cost of these future flare ups is covered.

On October 10, 2018, Dr. Spine stated that, “Because of his radicular symptoms and remaining neck pain [*sic*] Client was scheduled for a pain management consultation.”²¹ However, due to conflicts with Mr. Client’s work schedule, Mr. Client decided to “temporarily . . . forego”²² said consultation. Wherefore, Mr. Client did not receive pain management consultation *at that time* due to scheduling conflicts. However, the certainty of flare ups, and the likelihood of “potentially progressive and permanent disabling chronic pain in his neck and back in the future,”²³ makes it indubitable that, sometime in the future, Mr. Client will receive pain management consultations that fit within his schedule. As such, we demand \$12,475.28 to cover Mr. Client’s future pain management consultations, which he would not have to endure but-for the negligence of your insured.

Dr. Spine also noted on April 9, 2018, that Mr. Client “will be scheduled for . . . a probable epidural steroid injection at the providers discretion.”²⁴ However, due to scheduling conflicts with his work, Mr. Client chose to “temporarily . . . forego future treatment including injections”²⁵ (emphasis added). In other words, Mr. Client would have received injections had he not had scheduling conflicts. However, as Dr. Spine stated, Mr. Client’s foregoing of injections was temporary. Therefore, it is highly likely that Mr. Client will receive *injections*, plural, in his future. As such, we demand \$7,400.00 for the cost of future injections.

Dr. Spine stated on October 10, 2018, that “[t]he positive MRI findings represent areas of damage which lends its [*sic*] self to early spinal degeneration . . .”²⁶ Therefore, it is reasonable to conclude that spinal degeneration follows a normative pattern for most people. In other words, *if* Mr. Client had not been in this collision, he still may have suffered from spinal degeneration at some point in his future; however, because of this injury, he is more likely to experience spinal degeneration sooner in his lifetime.

Said early spinal degeneration will necessitate future treatment, for which we demand \$78,000.00 in damages to cover the costs of said future treatment. Furthermore, given the centrality of a healthy spine for a person’s overall health, it is reasonable to conclude that said early spinal degeneration may affect other areas of Mr. Client’s health. Wherefore, these areas of Mr. Client’s health, as a direct result of Mr. Client’s early spinal degeneration, may also necessitate medical treatment for which, save for the negligence of your insured, Mr. Client would not have to suffer and pay for. For the health complications that are more than likely to occur, given Dr. Spine’s prognosis of Mr. Client’s early spinal degeneration, we demand \$52,000.00 to cover these additional medical costs.

²¹ *Id.* at 1.

²² *Id.* at 2 (stating that “[Mr. Client] has had scheduling issues due to work [*sic*] so he has temporarily decided to forego any additional treatment including injections.”).

²³ *Id.*

²⁴ *Id.* at 11 (examination notes from 04/09/18).

²⁵ *Id.* at 2; *see also, supra* note 22.

²⁶ Exhibit C, at 2.

In sum, Mr. Client is reasonably expected to incur future medical expenses related to the injuries he sustained as a direct result of your insured's negligence. Considering the future costs of medical treatments, including but not limited to potential future rehabilitation costs, pain-management treatment, injections, etc., Mr. Client's future medical expenses are as follows:

Type of Future Medical Expenses	Amount
Future Chiropractic Treatment	\$5,579.20
Pain Management Consultations	\$12,475.28
Future Epidural Steroid Injections	\$7,400.00
Early Spinal Degeneration Treatment	\$78,000.00
Treatment of Other Health Issues Pertaining to Early Spinal Degeneration	\$52,000.00
FUTURE MEDICAL EXPENSES TOTAL:	\$155,454.48

GENERAL DAMAGES

A. PAST PAIN AND SUFFERING

The injuries caused by your insured have afflicted Mr. Client with significant pain and suffering and have had lasting consequences in his life. Before the incident, Mr. Client was young, happy, and independent; he had a good quality of life and was not inconvenienced by the pain and discomfort that has resulted from the collision. Due to your insured's negligence, Mr. Client has suffered unjustly and significantly.

When the collision occurred, Mr. Client's head and body were "violently thrust forwards and then snapped backwards in the cockpit of the vehicle,"²⁷ resulting in an onset of immediate pain and suffering. Furthermore, the "unremitting"²⁸ pain caused by the collision continued for several weeks even though Mr. Client attempted to manage his pain with over the counter medications and utilized a cervical collar to stabilize his neck.²⁹

Said cervical collar immobilized Mr. Client's neck and, as such, was burdensome to wear; routine activities, such as showering, driving, and eating, were more physically and mentally taxing for him to complete. Additionally, the cervical collar was unseemly to wear, causing Mr. Client significant embarrassment while out in public.

Mr. Client received treatment for his injuries at Good Spine Medical Center on fifteen different occasions between March 13, 2018, and April 23, 2018. However, because Mr. Client's vehicle was totaled in the collision and/or because his injuries rendered him unable to drive, Mr. Client was forced to rely on other people for transportation to and from said appointments. The necessity of securing rides from others reasonably resulted in pain and suffering for Mr. Client for the following reasons:

1. **Loss of personal autonomy.** Because Mr. Client "relie[d] on others for a ride he ha[d] to come [to treatment] when they [were] available."³⁰ Wherefore, a significant part of

²⁷ *Id.* at 1.

²⁸ *See supra* note 11.

²⁹ *See id.*

³⁰ Exhibit C, at 12 (examination notes from 04/10/18).

Mr. Client's life—receiving treatment—was not entirely under his control. Instead, Mr. Client became, of necessity, and due to no fault of his own, dependent on other people for vital transportation. This loss of personal independence and autonomy resulted in pain and suffering and other grievances for Mr. Client.

2. **Strained relationships.** Since Mr. Client relied on *others*, plural, it is reasonable to conclude that at least two people transported Mr. Client to and from his fifteen rehabilitation appointments. Therefore, considering this circumstance, Mr. Client reasonably experienced mental anguish due to his guilt for requiring the resources of others (i.e. their time and transportation).
3. **Frustration due to an altered treatment scheme.** Mr. Client experienced frustration due to his recovery depending on more factors than simply his own efforts. For example, the treatment team noted on April 10, 2018, that “[t]he treatment frequency typically allows for a day between exercises to avoid stiffness and lactic acid build up, but because William relies on others for a ride he has to come when they are available.”³¹ Therefore, because Mr. Client's vehicle was totaled in the collision with your insured, or because his injuries resulting from said collision rendered him incapable of driving—both of which are tied directly to your insured's negligence—Mr. Client could not receive treatment at the frequency that said treatment is typically given. Thus, in sum, the uncontrollability of his treatment regimen due to outside forces (i.e., ride-givers) reasonably resulted in pain, suffering, and inconvenience for Mr. Client.
4. **The aggravating hassle of coordinating rides.** Within the span of approximately forty days, Mr. Client attended treatment at Good Spine Medical Center fifteen times; or approximately one appointment every two and half days. Frequently throughout the week, then, Mr. Client experienced the frustrating task of coordinating his transportation needs with the schedules of other people. Although Mr. Client managed to find transportation for these fifteen appointments, he experienced heightened stress and aggravation due to the conflict between his intense need for treatment and the personal schedules of those willing to offer him rides.

Prior to the collision, Mr. Client led a successful career as a scaffold builder for High Rise Buildings;³² however, he was unable to fulfill his duties for several weeks after the incident occurred.³³ This disruption to the normal flow of Mr. Client's work life resulted in the following grievances and inconveniences for him:

1. **Significantly decreased personal life satisfaction.** Prior to the collision, Mr. Client's occupation was a rewarding part of his life. His work as a Scaffold Builder was part of his daily routine and provided a sense of normalcy. However, because of the injuries

³¹ *Id.* (examination notes from 04/10/18).

³² *See id.* at 9-10 (examination notes from 03/19/18) (stating that Mr. Client “cannot do any of the functions required of his work as a *scaffold builder for high rise buildings* . . .” (emphases added)).

³³ *See id.* at 9 (examination notes from 03/16/18) (Mr. Client informing the rehab team that he “ha[d] not been able to do his normal work yet.”); *see also, id.* at 9-10 (examination notes from 03/19/18) (still reporting that “he cannot do any of the functions required of his work . . .”); *see also, id.* at 10 (examination notes from 03/23/18) (stating that Mr. Client “has not yet returned to work because he still has pain all day . . .”).

resulting from the collision caused by the negligence of your insured, Mr. Client was unjustly forced to significantly reconfigure the parameters of his daily life. Mr. Client's time, which he had previously filled by working and earning wages, had to, due to no fault of his own, be reallocated and instead spent on rehabilitation, pain management, and waiting for improvement in general. As such, a desirous, fulfilling element of Mr. Client's daily life—his work—was replaced by an undesirable, unfulfilling, and inconvenient regiment of rehab appointments, limited mobility, and unwanted down time.

2. **Decreased workplace cohesion among colleagues.** Because he posed a risk to the health of his coworkers, Mr. Client was temporarily released from his duties by his employer.³⁴ Putting his coworkers in harm's way caused Mr. Client mental anguish. Furthermore, since Mr. Client's job involved "very heavy [*sic*] detailed work,"³⁵ which required "detailed and focused effort"³⁶ as well as inherent intragroup effectiveness, Mr. Client's condition caused him mental anguish since he (1) slowed down the progress of work projects due to absences because of his injuries, and (2) posed a risk to the health of his coworkers.

Between March 13, 2018, and April 23, 2018, Mr. Client attended fifteen physical therapy sessions. Over the duration of that treatment period, Mr. Client experienced the following physiological symptoms: neck pain, upper and lower back pain, left clavicle shoulder pain, left elbow pain; numbness and tingling radiating from his neck down his arm to the outer two fingers of his left hand; pain in neck and back when twisting, turning, standing, and walking; muscular tenderness with multiple sites of spinal fixations; gleno humeral pain, pain at the base of his skull, pain throughout his entire cervical ranges in all planes; cervical and upper thoracic pain and muscular tenderness with multiple sites of spinal fixations detected in the cervical thoracic and lumbar spine; radicular pain and cervical pain that is restricted by spasm in lateral flexion rotation to the right.³⁷

As is evident, the extent of Mr. Client's injuries was severe. In addition to having "so many initial symptoms,"³⁸ the pain of these symptoms was such that Mr. Client could not ignore them³⁹

³⁴ See *id.* at 9-10 (examination notes from 03/19/18) (stating that "[Mr. Client's] employer released him from his duties temporarily [*sic*] as working with his injuries pos[ed] a risk to his coworkers."); see also, *id.* at 10 (examination notes from 03/23/18) (stating that Mr. Client "will return to work when . . . he no longer poses a risk to those he works with.").

³⁵ *Id.* at 10 (examination notes from 03/23/18) (stating that "[Mr. Client's] work is very heavy [*sic*] detailed work on the sides of building structures . . .").

³⁶ Exhibit C, at 10 (examination notes from 03/23/18) (stating that "[Mr. Client's] work is very heavy [*sic*] detailed work on the sides of building structures [*sic*] which requires detailed and focused effort [*sic*] and even at full strength it is difficult and tiring to complete.").

³⁷ See *id.* (the entirety of these physiological symptoms is mentioned in various parts of Exhibit C, denoting multiple occasions throughout the lapse of several visits.).

³⁸ *Id.* at 2 (Prognosis).

³⁹ See *id.* at 10 (examination notes from 03/23/18) (stating that "[Mr. Client] has not yet returned to work because he still has pain all day and *the pains are not to the point where he can ignore it*" (emphases added)).

and had to change the way he performed certain activities.⁴⁰ As such, Mr. Client's injuries caused him physiological pain as well as the suffering inherent in a debilitated lifestyle.

Mr. Client's treatment required him to endure the following procedures, which were painful at times, as well as burdensome and difficult to tolerate: electric muscle stimulation, cervical thoracic and lumbar spinal adjustments, and soft tissue massage.⁴¹

Considering Mr. Client's inconveniences, grievances, and all other manner of pain and suffering as has been heretofore explained, as well as evaluating them in light of the type of injuries sustained, existing case law, and recent jury and bench awards in comparable cases, we calculate Mr. Client's past pain and suffering damages to be as follows:

Type of Damages	Amount
Past Pain and Suffering	\$120,000.00
PAST PAIN AND SUFFERING TOTAL:	\$120,000.00

B. FUTURE PAIN AND SUFFERING

Mr. Client's pain and suffering are not limited to the past and present. Given the mechanics of the collision, the nature of Mr. Client's injuries, the limited efficacy of his rehabilitation, and the results of his MRI, it is evident that, due to the events on February 23, 2018, Mr. Client will endure future pain and suffering.

As for Mr. Client's future pain and suffering, Dr. Spine noted the following in his Prognosis: "The positive MRI findings represent areas of damage which lends its [*sic*] self to early spinal degeneration and potentially progressive and permanent disabling chronic pain in his neck in the future."⁴² Given Mr. Client's prognosis, he will very likely experience progressive, permanent, disabling, chronic neck pain in his future. The pain is anticipated to be of such severity so as to necessitate a pain management program and further epidural steroid injections.

Mr. Client may experience spinal degeneration earlier in his life⁴³ than he would have if the collision had not occurred; said degeneration would be accompanied by pain and limit the kinds of activities Mr. Client would be able to participate in. Furthermore, the spinal degeneration may lead to disabling chronic pain, which would prevent Mr. Client from living a fulfilling life at home, work, and in the community.

Further, given the potential for early spinal degeneration, it is reasonable to expect that Mr. Client will suffer from other ailments (whether physical, emotional, social, etc.) due to this malady. Mr. Client will be limited in the enjoyable activities he can pursue, will likely be forced into early retirement or a career change, and will experience the negative emotional states that typically accompany limited mobility. It is also highly likely that Mr. Client will endure other medical injuries that would not otherwise occur save for the collision caused by your insured's negligence.

⁴⁰ See *id.* at 2 (Patient Complaints) (stating that, "[Mr. Client] reports that he has made some changes to the way he does things to minimize the stress he puts on his lower neck and back in particular.").

⁴¹ See *id.* (these procedures are mentioned in various parts of Exhibit C and form part of Mr. Client's near-daily treatment throughout his several visits with Dr. Spine.).

⁴² Exhibit C, at 2 (Prognosis).

⁴³ See *supra* note 26.

On October 10, 2018, Dr. Spine gave the prognosis that two of Mr. Client's maladies, namely, (1) post traumatic sprain/strain of cervical spine and (2) post traumatic sprain/strain of thoracic spine, both had an MMI of fourteen weeks to one year.⁴⁴ Furthermore, it is reasonable to assume that Mr. Client's remodeling phase would be closer to a year rather than fourteen weeks, since on several occasions his rehab treatment team noted that Mr. Client's recovery was progressing slowly.⁴⁵ Therefore, since it has been approximately ninety days since Dr. Spine issued that prognosis, it is practically certain that Mr. Client will suffer from the aforementioned pains for approximately 270 more days from the date of this demand letter.

Given Dr. Spine's caution that Mr. Client "do his best to avoid re injury,"⁴⁶ it is reasonable to conclude that either (1) Mr. Client is now at an *increased risk* for injury and therefore should be extra cautious; or (2) re-injury, if and when it occurs, would be especially detrimental to Mr. Client's chances of a full recovery. Regardless of which one Dr. Spine inferred, or whether it was a combination of both, Mr. Client has an increased risk of physical hardship in his future due to the injuries he's sustained. Therefore, Mr. Client is at risk for future additional pain and suffering resulting from his injuries and, even if he manages to avoid re-injury, will still experience the suffering inherent in the burden of vigilant cautiousness which Dr. Spine prescribed to him.

Dr. Spine also stated that Mr. Client should "continue with a home exercise and stretching program."⁴⁷ Such a program requires Mr. Client to allocate future time to physical rehabilitation; time that, save for the negligence of your insured, could have been allocated on other, more pleasant, fulfilling, and desirable activities. Furthermore, the degree of physical suffering inherent in Mr. Client's future stretching and exercising would not exist save for the negligence of your insured.

Dr. Spine also noted that, should flare ups occur, "ten to twelve visits would be sufficient to manage [them] . . ."⁴⁸ Attending rehab would interfere with Mr. Client's plans, since flare ups are unpredictable. Considering the inconvenience of the flare ups for scheduling purposes, as well as the inherent pain of these flare ups, it is reasonable to conclude that Mr. Client will experience pain and suffering intermittently because of said flare ups. Treatment visits would also require a sacrifice of time and the needed costs of transportation. Therefore, it is reasonable and essential to demand damages in preparation for the likelihood of return treatment visits throughout Mr. Client's life.

In sum, Mr. Client's future is tainted with pain and suffering as a direct result of your insured's negligence. Mr. Client will, because of your insured's negligence, experience a standard of living with less comfort and tranquility than he would have experienced had your insured not been negligent. There are enjoyable activities that Mr. Client will no longer be able pursue because of his ongoing pain. He will very likely have to alter his occupational goals and switch careers, leading to further mental anguish. Therefore, Mr. Client *will continue* to experience suffering incumbent upon altering his life to conform to the limits of his condition. In short, because of your

⁴⁴ Exhibit C, at 1 (Overall Diagnostic Impressions) (specifically referencing items 1 and 2).

⁴⁵ See *id.* at 11 (examination notes from 04/04/18) (stating that "[t]he patient's [*sic*] radicular pain is slow to resolve."); see also, *id.* at 12 (examination notes from 04/23/18) (stating that "[Mr. Client] is still improving slowly.").

⁴⁶ *Id.* at 2 (Prognosis).

⁴⁷ *Id.* (Prognosis).

⁴⁸ *Id.* (Recommendations/Plan); see also, *supra* note 18.

insured's negligence, Mr. Client will live a more painful and limited life.

Mr. Client's future pain and suffering damages were calculated by taking into account his future disabilities; troubles and inconveniences with daily living; inability to use his back and neck as he did before the collision; permanent physical, mental, and emotional trauma; and all other manner of future pain and suffering described herewith that he will have to carry throughout his life due to the negligence of your insured.

Accordingly, Mr. Client's future grievances, pain, and suffering were evaluated in light of the type of injuries sustained, existing case law, and recent jury and bench awards in comparable cases. His future pain and suffering damages are as follows:

Type of Damages	Amount
Future Pain and Suffering	\$220,000.00
FUTURE PAIN AND SUFFERING TOTAL:	\$220,000.00

TOTAL DAMAGES

WHEREFORE, considering all the elements heretofore demonstrated and explained within this Demand, Mr. Client's total damages are as follows:

Type of Damages	Amount
<i>Special Damages:</i>	
A. Past Medical Expenses Total	\$5,037.00
B. Future Medical Expenses Total	\$155,454.48
<i>General Damages:</i>	
A. Past Pain and Suffering Total	\$120,000.00
B. Future Pain and Suffering Total	\$220,000.00
TOTAL DAMAGES:	\$500,491.48

CONCLUSION

We expect a response within ten business days of receipt of this Demand and anticipate that you will be able to evaluate our demand and respond appropriately.

Thank you for your cooperation. We look forward to working with you to settle this case in a fair, timely, and appropriate manner.

Very truly yours,

ALTIOREM LEGAL SERVICES