

## Personal Injury Practice – Final Exam Fall 2013

### GENERAL INSTRUCTIONS

When preparing your response, write as legibly as possible. If I cannot read your response, you will not receive credit for it. When preparing your answer, write only on the front page. Do not write on the back page.

Be certain to return the exam question with your response, and note your student identification number on the question as well. ***I will not grade exam responses that do not contain the exam question.*** Also, be certain to note your student identification number, and course name on the front of each blue book. If your response requires more than one blue book, be certain to number each book, (i.e. 1 of 3, 2 of 3, etc.) Return scrap books as well!

#### STUDENTS ARE REMINDED OF MSL'S POLICY CONCERNING CHEATING:

*"Students must not lie, cheat or steal, or tolerate among them those who do. Nor shall any student engage in conduct inconsistent with being a student of law. Conduct inconsistent with being a student of law includes violation of rules and regulations of the Law School, illegal activity involving moral turpitude, activity involving dishonesty, fraud, deceit or misrepresentation, or any other conduct which reflects adversely on the student's fitness to practice law. □a) Any student aware of conduct violating any provision of these regulations is obligated to report such conduct to the Dean. □ □b) A student accused of a violation of these regulations has a right to notice and a hearing before a disciplinary committee, where he or she can present evidence and argument, can confront his or her accusers, and can be questioned. c. Penalties for a violation of these regulations can range from censure to expulsion from school."*

#### Question #1

On November 27, 2012, Connor, Adam, and Harry saunter into the Law Offices of Robert D. Armano. Attorney Armano calls upon you, his ace associate, to conduct the intake interview. During the interview, you learn that Adam and Harry have been involved in a vicious automobile accident. Their dear friend, Connor, who is not an attorney, has recommended that you hire him to "translate," since his friends have a heavy Irish brogue that's virtually impossible for "Americans" to understand. This perplexes you since they seem to speak perfectly understandable English.

For the time being, you place Connor on hold and delve into the facts. Your query unearths the following: On April 23, 2012 at 4:30 p.m., Adam's 2011 Mercedes C320 (the "Benz"), was traveling in an easterly direction along Common Street in Lawrence, MA. At the same time, a classic 1957 Cadillac, operated by Christopher, (but owned by his girlfriend, Adriana,) was traveling in a northerly direction along Jackson Street. As was his usual custom, he had just finished cleaning their apartment, and Adriana thought he deserved to cruise the streets of Lawrence in a "cool ride." Suddenly though, and without any advanced warning, as the

Benz entered the intersection of Common and Jackson Street on a green light, Christopher disregarded a red light, thereby causing the ensuing collision. Apparently, he was preoccupied with his passenger, Pauly, and didn't notice that the light had changed. It must have been those 5 shots of Anisette, (an Italian liqueur) he had before leaving the house. Who knows!? The next thing he knew, badda bing, badda boom, the Caddy was totaled! How would he explain this to Adriana, and who was going to clean the friggin' apartment now!?

Through your investigation into these facts, you learn that *Safety Insurance Company* insured Adam's Benz, and that the *Commerce Insurance Company* insured the Cadillac. (**The Coverage Selection Page for the Mercedes C320 is attached hereto.**) The Part 1 coverage limits, (i.e. Bodily Injury to Others) covering the Cadillac are **compulsory only**, (i.e. 20/40), and the Part 3 coverage (i.e., Uninsured Motorist Coverage) is 100/300. There are NO optional coverages within the Cadillac policy! You also learn that while Adam works for Raytheon, Co., Harry is home on leave from the military. Accordingly, Adam carries a privately funded health insurance plan through HMO Blue, while Harry's health insurance is covered through a plan sponsored by the U.S. government, called Tri-Care. Further, you learn that Harry drives only tanks, and resides in an Army tent in southern California. Moreover, Harry tells you that he knows Christopher's passenger, Pauly, and relates that "*that guy is unemployed, lives alone at the local YMCA, and does nothing all day but smoke cigars, and bum rides to the "Bing," his favorite venue for adult entertainment!*" Finally Adam and Harry relate to you that their treating chiropractor, Dr. Jay, is the best "back cracker" in town, and they aren't going anywhere else. Dr. Jay is NOT an HMO Blue preferred provider. Adam also laments that his injuries are going to prevent him from clearing his driveway with his snowplow, and wants to know what you're going to do about it.

Attorney Armano wants you to explain to the individuals present what their various rights and/or liabilities may be. He tells you to be certain to explain to each claimant what provisions of the applicable automobile insurance policy or policies apply to their individual claims. Since you're an expert on Massachusetts automobile insurance law, attorney Armano asks you to satisfy his intellectual curiosity by preparing a memorandum on the respective rights and liabilities of Christopher, and Pauly. **Assume that all parties have medical bills that exceed \$2,000.** Note: Since you don't know what the extent of the parties damages are at this point, be certain to explain to each claimant (Pauly included) what the possibilities are if their damages exceed the policy limits.

### Question #2

On January 2, 2012, after a wild night of popcorn, Pepsi and Dick Clark's Rockin' New Year's Eve special, Gepetto Michelangelo Balladucci (a/k/a "Murphy"), showed up for work at the Muppet Puppet Factory, Inc. On his way to work, he couldn't stop thinking about that lousy bench that they assigned to him. You know, the one with the broken leg. He'd complained to the supervisor and sole stockholder, Pinocchio, (who had a nasty reputation as a lying bastard), but his lamentations went unheeded.

Anyhow, on the above date, Murphy arrived at work and heard Pinocchio whistling. As he approached Murphy, Pinocchio threw his arm around Murphy's shoulder and announced that he had turned over a new leaf, and was starting his "new year's revolution!" He promised Murphy that his old bench had been repaired, and was as good as new! Murphy was skeptical, but thought his old boss's wooden heart had really softened, so he gave him the benefit of the doubt and sat at the bench with a renewed sense of mankind. As soon as his bottom hit the bench, however, Murphy fell four feet to the ground, and re-injured his back! As Murphy writhed in pain on the hard ground, his co-employee, Sal, glared in horror and cried inconsolable tears. You see, Sal was a sensitive old softy and had finally seen enough of Pinocchio's antics. Witnesses say Sal never returned to work after that, had has been in psychotherapy ever since. But I digress.

As Pinocchio howled with pleasure, a humiliated Murphy managed to pick himself off the ground, and get himself to the hospital. His treating physician has advised him that he had indeed re-aggravated his old back injury, and would be out of work until further notice. When Murphy notified Pinocchio that he would not be returning to work, he was informed that he (Murphy) would not be getting paid, in any event, since the Muppet Puppet Factory didn't have Workers' Compensation Coverage.

Murphy and Sal have retained your services to handle their claims. They have both presented you with doctor's notes. While Murphy's physician has opined that Murphy is totally disabled for the time being, Sal's shrink isn't quite as generous, and has opined that Sal's only partially disabled. Both men have an average weekly wage of \$500.00 per week, and want you to explain their substantive legal rights. They are particularly interested in how these claims work procedurally, and want to know how you'll be compensated since they have no money to pay you. Both gentleman are understandably fighting mad, and expect to be compensated for their pain and suffering as well. They really want you to help them put the wood to Ol' Pinocchio and the Muppet Puppet Factory. Finally, you have since learned that while Sal will likely recover with a year or so, Murphy will be left with a permanent loss of function. Please discuss the rights and liabilities of *all* parties to this unfortunate event.

HAVE A GREAT HOLIDAY SEASON!



Safety Insurance

This Policy Is Issued By:

Safety Insurance Company

ITEM 1. This Policy Is Issued To:

ADAM

A

COVERAGE SELECTIONS PAGE

This page and any attached endorsements form a part of your policy.

1. Vehicle Policy

Massachusetts Personal Automobile Policy Number Agent

PRV 07

ITEM 2. This Policy Is Effective From: OCTOBER 24, 2012 To OCTOBER 24, 2013

(12:01 A.M. Eastern Standard Time)

ITEM 3. Description of Your Auto:

D

Table with 2 columns: Auto 001 2011 MERCEDES C320 SEDAN, Auto

ITEM 4. This policy provides only the coverages for which a premium charge is shown.

Main coverage table with columns: COVERAGES, Parts 1-12, AUTO 001, AUTO. Rows include Bodily Injury To Others, Personal Injury Protection, etc.

TOTAL PREMIUM \$ 1,320.00

\* INCLUDES WAIVER OF DEDUCTIBLE

Discount % AUTO 001 - AUTO, Age 65 and Older NO, Air bag/Automatic seatbelts 25%, Annual Mileage NO, Anti-Theft NO, Multi-Car 5%

Identification Numbers of Endorsements Forming a Part of this Policy M0099S MPY0016

ITEM 5. Place of Principal Garaging

ITEM 6. Secured Lender/Lessor-Additional Insured, if Rented Auto

AUTO 001 005

Driver Information:

Table with columns: Op. No., Operator Name, Date of Birth, License Number, Lic. State/Country, Date First Licensed, Driver Training Y/N, Deferred Operator, Operator Status.

REFER TO OTHER SIDE FOR ADDITIONAL INFORMATION



# Safety Insurance

This Policy Is Issued By:

**Safety Insurance Company**

ITEM 1. This Policy Is Issued To:

**ADAM**

**A**

# COVERAGE SELECTIONS PAGE

This page and any attached endorsements form a part of your policy.

1 Vehicle Policy

Massachusetts Personal Automobile  
Policy Number  
Agent

PRV 07

ITEM 2. This Policy Is Effective From: **OCTOBER 24, 2012** To **OCTOBER 24, 2013**

(12:01 A.M. Eastern Standard Time)

ITEM 3. Description of Your Auto:

D

Auto 001 2011 MERCEDES C320 SEDAN Auto

ITEM 4. This policy provides only the coverages for which a premium charge is shown.

COVERAGES, Parts 1 - 12	AUTO 001				AUTO			
COMPULSORY INSURANCE	LIMITS	DEDUCTIBLE	PREMIUM	ADJUSTED PREMIUM	LIMITS	DEDUCTIBLE	PREMIUM	ADJUSTED PREMIUM
1 Bodily Injury To Others	\$20,000 per person \$40,000 per accident	None	\$ 259		\$	None	\$	
2 Personal Injury Protection	\$8,000 per person	\$ NONE <input type="checkbox"/> Yourself <input type="checkbox"/> Yourself and household members	\$ 85		\$	\$ <input type="checkbox"/> Yourself <input type="checkbox"/> Yourself and household members	\$	
3 Bodily Injury Caused By An Uninsured Auto (Compulsory Limits \$20000 / \$40000)	\$100,000 per person \$300,000 per accident	None	\$ 24		\$	None	\$	
4 Damage to Someone Else's Property (Compulsory Limit \$5,000)	\$100,000 per accident	None	\$ 326		\$	None	\$	
<b>OPTIONAL INSURANCE</b>								
5 Optional Bodily Injury To Others	\$250,000 per person \$500,000 per accident	None	\$ 193		\$	None	\$	
6 Medical Payments	\$5,000 per person	None	\$ 10		\$	None	\$	
7 Collision	Actual Cash Value *	\$ 500	\$ 791		Actual Cash Value	\$	\$	
8 Limited Collision	Actual Cash Value	\$	\$		Actual Cash Value	\$	\$	
9 Comprehensive	Actual Cash Value	\$ 500	\$ 206		Actual Cash Value	\$	\$	
10 Substitute Transportation	Up to \$ 15 a day, maximum \$ 450	None	\$ 14		Up to \$ a day, maximum \$	None	\$	
11 Towing and Labor	Up to \$ for each disablement	None	\$		Up to \$ for each disablement	None	\$	
12 Bodily Injury Caused By An Underinsured Auto	\$100,000 per person \$300,000 per accident	None	\$ 46		\$	None	\$	
<b>SAFE DRIVER INSURANCE PLAN</b>								
	CREDIT-STEP	09	\$ - 634		CREDIT-STEP		\$	
	SURCHARGE-STEP		\$		SURCHARGE-STEP		\$	
	PREMIUM		\$ 1320		PREMIUM		\$	

\* INCLUDES WAIVER OF DEDUCTIBLE

**TOTAL PREMIUM \$ 1,320.00**

Discount %      Age 65 and Older      Air bag/Automatic seatbelts      Annual Mileage      Anti-Theft      Multi-Car

AUTO 001 -      NO      25%      NO      NO      5%

AUTO

Identification Numbers of Endorsements Forming a Part of this Policy  
M0099S      MPY0016

ITEM 5. Place of Principal Garaging

AUTO 001      005  
AUTO

ITEM 6. Secured Lender/Lessor-Additional Insured, if Rented Auto

Driver Information:

Op. No.	Operator Name	Date of Birth Mo. Day Yr.	License Number	Lic. State/ Country	Date First Licensed Mo. Day Yr.	Driver Training Y-N	Deferred Operator	Operator Status E = Excluded P = Principal O = Occasional				
								Veh 001	Veh	Veh	Veh	
1				MA		N	N	P				
2				MA		N	N	O				

REFER TO OTHER SIDE FOR ADDITIONAL INFORMATION

**PERSONAL INJURY**

**2015 Midterm Materials**

## MEMORANDUM

To: Associate  
From: RDA, Senior Partner  
RE: Demand Package

Please prepare a demand package for the purposes of soliciting a settlement offer. The demand should be addressed to the adjuster named on the third party acknowledgement letter enclosed with the demand materials.

On August 26, 2004 at approximately 2:30 p.m., the plaintiff, Rachel Ramirez was returning home from work at the Wingate Nursing Home, and was traveling in a southerly direction along Route 93 South (at or near the Dascomb Road Exit #42) in Andover, Massachusetts. On that date and time, she was stopped completely in heavy, rush hour traffic when suddenly and without any advanced warning, her vehicle was struck from behind by a vehicle operated by William Smith. After the initial impact, Rachel's vehicle was launched forward into a vehicle operated by Paul Bunion. A diagram of the accident scene is contained within the Massachusetts State Police Report contained within the materials folder (on reserve in the MSL Library).

All information concerning injuries, treatment and medical expenses is contained within the file. All medical expenses have been paid by the PIP (1<sup>st</sup> Party) carrier, Premiere Insurance. Mrs. Ramirez has indicated that, during her disability, she lost \$2,475.00 in wages (regular time, and overtime). She was, (and is), a nurses aid employed with the Wingate Nursing Home. 75% of this amount has been paid by PIP. Mrs. Ramirez is a boating enthusiast, an avid candlepin bowler, and has reported that she enjoys spending her spare time outdoors with her Husband of 25 years, Jose, and their 3-year-old granddaughter, Autumn. She has lamented that, since the accident, she has been unable to enjoy any of these activities. During the interview, Jose interjected that Rachel just can't seem to "get in the mood" anymore since the accident!

First party collision coverage was unavailable. Accordingly, please include a claim for the damage to Mrs. Ramirez's vehicle. The cost to repair the damage to the body of the vehicle was \$3,755.90, and was paid to Gino's Autobody of Lawrence, MA by Jose Ramirez. Assume that a receipt exists.

**This demand must be submitted for my review on or before 9:00 p.m. on Thursday, April 9, 2015. DEMANDS SUBMITTED AFTER THE DUE DATE WILL NOT BE CONSIDERED WITHOUT THE CONSENT OF THE INSTRUCTOR! All materials necessary for the completion of your demand, (referenced as "2015 Midterm Materials") are posted on MSL's website within the Professor's "Prior Exams" section.**

**Pilgrim Insurance Company**  
P. O. Box 120540  
Boston, Massachusetts 02112  
Tel 617-956-6100 Fax 617-956-6199

September 14, 2004

Attorney Robert Armano

RE: Our Insured: William  
Claim No.: 045381900  
Claimant: Rachel  
Date of Loss: 8/26/04

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Dear Attorney Armano,

It has come to my attention that your office represents the above mentioned claimant (s) in connection with injuries sustained as a result of a motor vehicle accident that occurred on the above date.

Please be advised that our insured carries policy limits of 20/40 in applicable insurance coverage. Please provide me with your client's date of birth, injury information, names of treating facilities and social security number at your earliest convenience.

Sincerely,



Laura Polymeros  
Sr. Claims Representative  
617-956-6152



Commonwealth of Massachusetts  
Motor Vehicle Crash  
Police Report

PW200517800185

Date of Crash: 8/26/04 Time of Crash: 3:20:00 City/Town: ANDOVER # of Vehicles: 3 # Injured: 0 Speed Limit: 65 Latitude: Longitude: Police Type: 1

AT INTERSECTION		< LOCATION >	NOT AT INTERSECTION	
Route #	Director	Name of Roadway/Street	Route #	Director
Route #	Director	Name of Intersecting Roadway/Street	Feet S. of	42
Route #	Director	Name of Intersecting Roadway/Street	Feet of	Mile Marker or Exit Number
			Feet of	Route #
			Feet of	Intersecting Roadway/Street
				Landmark

X Vehicle # 1	Non-Motorist	Hit/Run	Moped
# Occupants	Type	Action	Location
License #	St MA	Age 39	DOB 9/23/64
Sex M	Lic. Class D	Lic. Restrictions	CDL Lic.
Operator PAUL			
Address			
City NEWTON	State MA	Zip 02460	
Insurance Company	COMMERCE		
Vehicle Travel Direction	N	Responding to Emergency	2
Cited? 2	Citation #		
Violation 1: Ch: Sec	Violation 2: Ch: Sec		
Violation 3: Ch: Sec	Violation 4: Ch: Sec		
		Reg #	Reg Type PAN
		Veh Year 2000	Veh Make JEEP
		Owner PAUL	Reg State MA
		Address	Veh Config 2
		City NEWTON	State MA Zip 02460
		Vehicle action prior to crash 1	Damaged Area: 5
		Event Sequence 1	
		Most Harmful 1	
		Event	
		Driver Contributing Code 1	
		Underride/Override 1	Towed? 2

Operator/Non-Motorist/Occupant Information:

Name	Address	Age	DOB	Sex	Safety Seat	Airbag Pos	Airbag System	Airbag Status	Airbag Switch	Eject Code	Trap Code	Injury Status	Transp Code	Medical Code
PAUL	NEWTON, MA 02460	39	9/23/64	M	1	1	4	3	0	0	5			

X Vehicle # 2	Non-Motorist	Hit/Run	Moped
# Occupants	Type	Action	Location
License #	St MA	Age 58	DOB 4/16/46
Sex F	Lic. Class D	Lic. Restrictions 2	CDL Lic.
Operator RACHEL			
Address 63 STREET			
City LAWRENCE	State MA	Zip 01841	
		Reg #	Reg Type PAN
		Veh Year 1999	Veh Make HONDA
		Owner RACHEL	Reg State MA
		Address: 63 STREET	Veh Config 1
		City LAWRENCE	State MA Zip 01841

Insurance Company PREMIER  
 Vehicle Travel Direction Responding to Emergency: 2  
 Cited? 2 Citation #  
 Violation 1: Ch: Sec Violation 2: Ch: Sec  
 Violation 3: Ch: Sec Violation 4: Ch: Sec

Vehicle action prior to crash 1  
 Event Sequence 1  
 Most Harmful 1  
 Event  
 Driver Contributing Code 1  
 Underride/Override 1  
 Damaged Area 1  
 5  
 Towed? 1

Operator/Non-Motorist/Occupant Information:

Name	Address	Age	DOB	Sex	Seat Pos	Safety System	Airbag Status	Airbag Switch Code	Eject Code	Trap Code	Injury Status	Transp Code	Medical
RACHEL	63 REET LAWRENCE, MA 01841	58	4/16/46	F	1	1	4	3	0	0	3		

X Vehicle #	Non-Motorist	Hit/Run	Moped				
#3							
1 # Occupants	Type	Action	Location	Condition			
License #	St MA	Age 44	DOB 7/12/60	Reg #	Reg Type I/AN	Reg State MA	
Sex M	Lic. Class D-M	Lic. Restrictions 2	CDL Lic.	Veh Year 1999	Veh Make JEEP	Veh Config 2	
Operator WILLIAM				Owner WILLIAM			
Address				Address			
City TEWKSBURY	State MA	Zip 00091		City TEWKSBURY	State MA	Zip 00091	
Insurance Company PILGRIM				Vehicle action prior to crash 1		Damaged Area 1	
Vehicle Travel Direction Responding to Emergency: 2				Event Sequence 1			
Cited? 2 Citation #				Most Harmful 1			
Violation 1: Ch: Sec	Violation 2: Ch: Sec			Event			
Violation 3: Ch: Sec	Violation 4: Ch: Sec			Driver Contributing Code 1			
				Underride/Override 1		Towed? 1	

Operator/Non-Motorist/Occupant Information:

Name	Address	Age	DOB	Sex	Seat Pos	Safety System	Airbag Status	Airbag Switch Code	Eject Code	Trap Code	Injury Status	Transp Code	Medical
WILLIAM	TEWKSBURY, MA 00091	44	7/12/60	M	1	1	4	3	0	0	5		

# Police Report Crash Diagram

Crash City/Town: ANDOVER

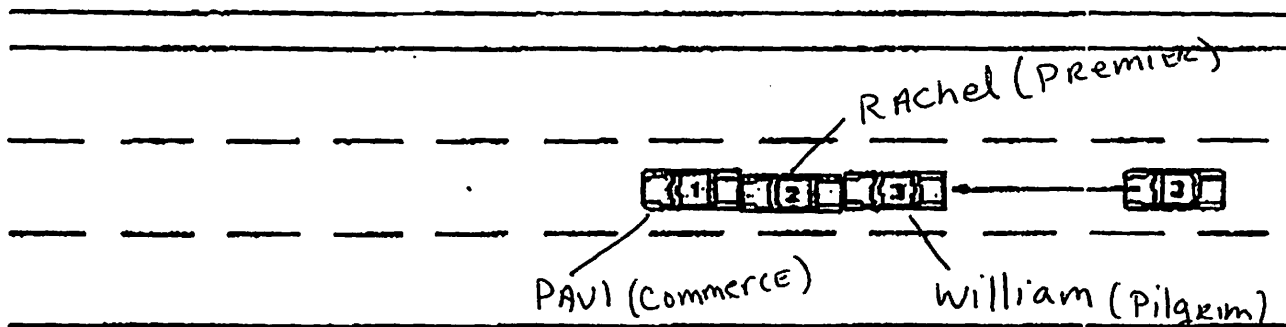
Crash Date: 8/26/04

Document Number: PW200517800185

Route 93 Northbound,  
North of exit 41 Andover

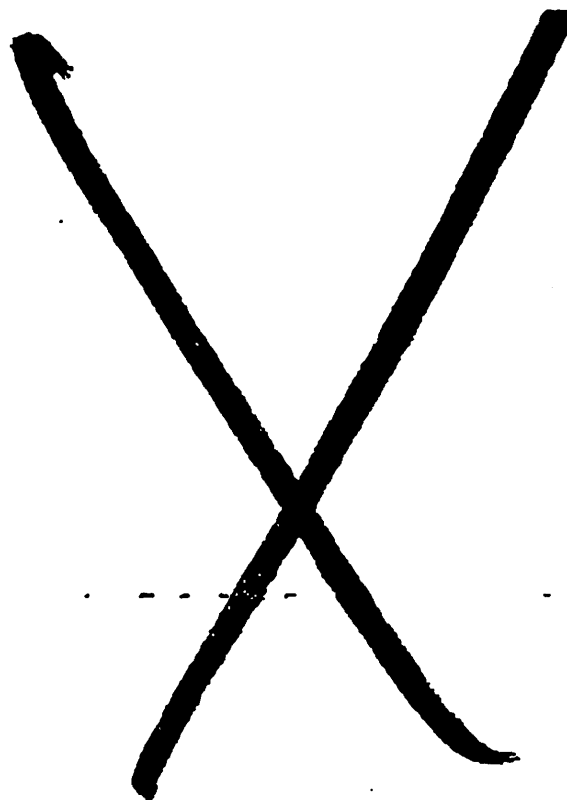


NOT TO SCALE



**Police Report Crash Narrative****Crash City/Town: ANDOVER****Crash Date: 8/26/04****Document Number: PW200517800185**

**VEHICLES 1, 2, AND 3 TRAVELING IN MIDDLE LANE. TRAFFIC SLOWS  
DUE TO EVENING COMMUTE/RUSH HOUR. VEHICLE 3 UNABLE TO STOP  
AND STRIKES VEHICLE 2 IN THE REAR, PUSHING VEHICLE 2 INTO VEHICLE  
1. NEGATIVE INJURY. VEHICLES 2 AND 3 TOWED.**



HOLY FAMILY HOSPITAL 70 EAST STREET METHUEN, MA 01844 978 687-0151				2				3 PATIENT CONTROL NO. 131									
5 FED. TAX NO. 222547376		6 STATEMENT COVERS PERIOD FROM 112304		THROUGH 112304		7 COVD. 0	8 N-C.D. 0	9 C-I.D.	10 L-R.D.	11 H00050329333							
12 PATIENT NAME RACHEL				13 PATIENT ADDRESS 63 ST 2ND FL LAWRENCE MA 01841													
14 BIRTHDATE 04161946	15 SEX F	16 MS M	17 DATE 112304	18 HR	19 TYPE	20 SRC	21 D HR	22 STAT	23 MEDICAL RECORD NO. 01	24	25	26	27	28	29	30	31
32 CODE 01	OCCURRENCE DATE 112304	33	34 CODE	OCCURRENCE DATE	35	36 CODE	OCCURRENCE SPAN FROM	THROUGH	37	38	39 CODE	VALUE CODES AMOUNT	40	41 CODE	VALUE CODES AMOUNT		
RACHEL 63 ST 2ND FL LAWRENCE MA 01841										a	b	c	d				
42 REV. CD. 320	43 DESCRIPTION DIAGNOSTIC RADIOLOGY	44 HCPCS / RATES 73030	45 SERV. DATE 112304	46 SERV. UNITS 1	47 TOTAL CHARGES 27300	48 NON-COVERED CHARGES	49										
001	TOTAL CHARGE	27300	0														
50 PAYER Legal Blue Choice	51 PROVIDER NO.	52 REL INFO Y	53 ASG BEN Y	54 PRIOR PAYMENTS	55 EST AMOUNT DUE	56											
57	DUE FROM PATIENT																
58 INSURED'S NAME JOSE	59 P.REL. 02	60 CERT. - SSN - IIC - ID NO MTP125444209	61 GROUP NAME	62 INSURANCE GROUP NO.													
63 TREATMENT AUTHORIZATION CODES	64 EGC 1	65 EMPLOYER NAME MALDEN MILLS	66 EMPLOYER LOCATION LAWRENCE, MA														
67 PRN. DIAG. CD. 71941	68 CODE	69	70 CODE	71	72 CODE	73	74 CODE	75 ADM. DIAG. CD. 71941	77 E-CODE	78							
79 P.C. C	80 PRINCIPAL PROCEDURE CODE DATE	81 OTHER PROCEDURE CODE DATE	82 ATTENDING PHYS. ID G40174	83 OTHER PHYS. ID KAUL SHARDA MD													
84 REMARKS Legal	85 PROVIDER REPRESENTATIVE X BARBARA CLOUGH	86 DATE 082605															

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**Ledger Report  
Old Charges**

FOR ACCOUNT #: - RACHEL  
 FOR DATE RANGE: FIRST TO 03/07/2005  
 TOTAL BALANCE: \$2,940.00

CASH BALANCE: \$ 0.00

FOR INVOICE #: ALL  
 FOR CLAIM #: ALL  
 FINANCIAL CLASS: 04

INV #	DOS	PROCEDURE	DOC	INS	INVOICE DATE	CURRENT CHARGES	CURRENT INS AMT	CURRENT CASH AMT
115668	09/13/2004	INITIAL EXAM 001 PGM	09/13/2004		125.00	125.00	0.00	
115668	09/13/2004	HYDROCOLLATOR 001 PGM	09/13/2004		20.00	20.00	0.00	
115668	09/13/2004	TRACTION, MEC 001 PGM	09/13/2004		25.00	25.00	0.00	
115668	09/13/2004	INTERFERENTIA 001 PGM	09/13/2004		30.00	30.00	0.00	
115668	09/13/2004	ELECTRODES 001 PGM	09/13/2004		15.00	15.00	0.00	
115668	09/13/2004	2ND SET OF EL 001 PGM	09/13/2004		15.00	15.00	0.00	
115698	09/15/2004	OV/CMT 1-2 RE 001 PGM	09/15/2004		55.00	55.00	0.00	
115698	09/15/2004	HYDROCOLLATOR 001 PGM	09/15/2004		20.00	20.00	0.00	
115698	09/15/2004	TRACTION, MEC 001 PGM	09/15/2004		25.00	25.00	0.00	
115698	09/15/2004	ELECTRICAL ST 001 PGM	09/15/2004		30.00	30.00	0.00	
115709	09/16/2004	OV/CMT 1-2 RE 001 PGM	09/16/2004		55.00	55.00	0.00	
115709	09/16/2004	HYDROCOLLATOR 001 PGM	09/16/2004		20.00	20.00	0.00	
115709	09/16/2004	TRACTION, MEC 001 PGM	09/16/2004		25.00	25.00	0.00	
115709	09/16/2004	ELECTRICAL ST 001 PGM	09/16/2004		30.00	30.00	0.00	
115722	09/20/2004	OV/CMT 1-2 RE 001 PGM	09/20/2004		55.00	55.00	0.00	
115722	09/20/2004	HYDROCOLLATOR 001 PGM	09/20/2004		20.00	20.00	0.00	
115722	09/20/2004	TRACTION, MEC 001 PGM	09/20/2004		25.00	25.00	0.00	
115722	09/20/2004	ELECTRICAL ST 001 PGM	09/20/2004		30.00	30.00	0.00	
115749	09/22/2004	OV/CMT 1-2 RE 001 PRE	09/22/2004		55.00	55.00	0.00	
115749	09/22/2004	HYDROCOLLATOR 001 PRE	09/22/2004		20.00	20.00	0.00	
115749	09/22/2004	TRACTION, MEC 001 PRE	09/22/2004		25.00	25.00	0.00	
115749	09/22/2004	ELECTRICAL ST 001 PRE	09/22/2004		30.00	30.00	0.00	
115753	09/23/2004	OV/CMT 1-2 RE 001 PRE	09/23/2004		55.00	55.00	0.00	
115753	09/23/2004	HYDROCOLLATOR 001 PRE	09/23/2004		20.00	20.00	0.00	
115753	09/23/2004	TRACTION, MEC 001 PRE	09/23/2004		25.00	25.00	0.00	
115753	09/23/2004	ELECTRICAL ST 001 PRE	09/23/2004		30.00	30.00	0.00	
115764	09/27/2004	OV/CMT 1-2 RE 001 PRE	09/27/2004		55.00	55.00	0.00	
115764	09/27/2004	HYDROCOLLATOR 001 PRE	09/27/2004		20.00	20.00	0.00	
115764	09/27/2004	TRACTION, MEC 001 PRE	09/27/2004		25.00	25.00	0.00	
115764	09/27/2004	ELECTRICAL ST 001 PRE	09/27/2004		30.00	30.00	0.00	
115783	09/28/2004	OV/CMT 1-2 RE 001 PRE	09/28/2004		55.00	55.00	0.00	
115783	09/28/2004	HYDROCOLLATOR 001 PRE	09/28/2004		20.00	20.00	0.00	
115783	09/28/2004	TRACTION, MEC 001 PRE	09/28/2004		25.00	25.00	0.00	
115783	09/28/2004	INTERFERENTIA 001 PRE	09/28/2004		30.00	30.00	0.00	
115788	09/29/2004	OV/CMT 1-2 RE 001 PRE	09/29/2004		55.00	55.00	0.00	
115788	09/29/2004	HYDROCOLLATOR 001 PRE	09/29/2004		20.00	20.00	0.00	
115788	09/29/2004	TRACTION, MEC 001 PRE	09/29/2004		25.00	25.00	0.00	
115788	09/29/2004	ELECTRICAL ST 001 PRE	09/29/2004		30.00	30.00	0.00	
115789	09/29/2004	RE-EVAL 001 PRE	09/29/2004		90.00	90.00	0.00	
115823	10/04/2004	OV/CMT 1-2 RE 001 PRE	10/04/2004		55.00	55.00	0.00	
115823	10/04/2004	HYDROCOLLATOR 001 PRE	10/04/2004		20.00	20.00	0.00	
115823	10/04/2004	TRACTION, MEC 001 PRE	10/04/2004		25.00	25.00	0.00	
115823	10/04/2004	ELECTRICAL ST 001 PRE	10/04/2004		30.00	30.00	0.00	
115850	10/07/2004	OV/CMT 1-2 RE 001 PRE	10/07/2004		55.00	55.00	0.00	
115850	10/07/2004	HYDROCOLLATOR 001 PRE	10/07/2004		20.00	20.00	0.00	
115850	10/07/2004	TRACTION, MEC 001 PRE	10/07/2004		25.00	25.00	0.00	
115850	10/07/2004	ELECTRICAL ST 001 PRE	10/07/2004		30.00	30.00	0.00	
115879	10/14/2004	OV/CMT 1-2 RE 001 PRE	10/14/2004		55.00	55.00	0.00	
115879	10/14/2004	HYDROCOLLATOR 001 PRE	10/14/2004		20.00	20.00	0.00	

## Old Charges

FOR ACCOUNT #: --- - RACHEL  
 FOR DATE RANGE: FIRST TO 03/07/2005  
 TOTAL BALANCE: \$

CASH BALANCE: \$ 0.00

FOR INVOICE #: ALL  
 FOR CLAIM #: ALL  
 FINANCIAL CLASS: 04

INV #	DOS	PROCEDURE	DOC INS	INVOICE DATE	CURRENT CHARGES	CURRENT INS AMT	CURRENT CASH AMT
115879	10/14/2004	TRACTION, MEC 001 PRE	10/14/2004	25.00	25.00	0.00	
115879	10/14/2004	ELECTRICAL ST 001 PRE	10/14/2004	30.00	30.00	0.00	
115891	10/18/2004	CLIENT CALLED 001	10/18/2004	0.00	0.00	0.00	
115899	10/19/2004	OV/CMT 1-2 RE 001 PRE	10/19/2004	55.00	55.00	0.00	
115899	10/19/2004	HYDROCOLLATOR 001 PRE	10/19/2004	20.00	20.00	0.00	
115899	10/19/2004	TRACTION, MEC 001 PRE	10/19/2004	25.00	25.00	0.00	
115899	10/19/2004	ELECTRICAL ST 001 PRE	10/19/2004	30.00	30.00	0.00	
115918	10/21/2004	OV/CMT 1-2 RE 001 PRE	10/21/2004	55.00	55.00	0.00	
115918	10/21/2004	HYDROCOLLATOR 001 PRE	10/21/2004	20.00	20.00	0.00	
115918	10/21/2004	TRACTION, MEC 001 PRE	10/21/2004	25.00	25.00	0.00	
115918	10/21/2004	ELECTRICAL ST 001 PRE	10/21/2004	30.00	30.00	0.00	
115918	10/21/2004	RE-EVAL 001 PRE	10/21/2004	90.00	90.00	0.00	
115918	10/21/2004	XRAY LUMBAR L 001 PRE	10/21/2004	70.00	70.00	0.00	
115918	10/21/2004	XRAY LUNBAR L 001 PRE	10/21/2004	70.00	70.00	0.00	
115943	10/25/2004	MISSED APPOIN 001	10/25/2004	0.00	0.00	0.00	
115966	10/27/2004	OV/CMT 1-2 RE 001 PRE	10/27/2004	55.00	55.00	0.00	
115966	10/27/2004	HYDROCOLLATOR 001 PRE	10/27/2004	20.00	20.00	0.00	
115966	10/27/2004	TRACTION, MEC 001 PRE	10/27/2004	25.00	25.00	0.00	
115966	10/27/2004	ELECTRICAL ST 001 PRE	10/27/2004	30.00	30.00	0.00	
115971	10/28/2004	OV/CMT 1-2 RE 001 PRE	10/28/2004	55.00	55.00	0.00	
115971	10/28/2004	HYDROCOLLATOR 001 PRE	10/28/2004	20.00	20.00	0.00	
115971	10/28/2004	TRACTION, MEC 001 PRE	10/28/2004	25.00	25.00	0.00	
115971	10/28/2004	ELECTRICAL ST 001 PRE	10/28/2004	30.00	30.00	0.00	
115971	10/28/2004	RE-EVAL 001 PRE	10/28/2004	90.00	90.00	0.00	
116009	11/02/2004	MISSED APPOIN 001	11/02/2004	0.00	0.00	0.00	
116033	11/04/2004	OV/CMT 1-2 RE 001 PRE	11/04/2004	55.00	55.00	0.00	
116033	11/04/2004	HYDROCOLLATOR 001 PRE	11/04/2004	20.00	20.00	0.00	
116033	11/04/2004	TRACTION, MEC 001 PRE	11/04/2004	25.00	25.00	0.00	
116033	11/04/2004	ELECTRICAL ST 001 PRE	11/04/2004	30.00	30.00	0.00	
116090	11/15/2004	OV/CMT 1-2 RE 001 PRE	11/15/2004	55.00	55.00	0.00	
116090	11/15/2004	HYDROCOLLATOR 001 PRE	11/15/2004	20.00	20.00	0.00	
116090	11/15/2004	TRACTION, MEC 001 PRE	11/15/2004	25.00	25.00	0.00	
116090	11/15/2004	INTERFERENTIA 001 PRE	11/15/2004	30.00	30.00	0.00	
116091	11/15/2004	RE-EVAL 001 PRE	11/15/2004	90.00	90.00	0.00	

	# VISITS	CHARGES	INS AMOUNT	CASH AMOUNT
TOTALS:	21	\$ 2,940.00	\$ 2,940.00	\$ 0.00
AVERAGES:		\$ 140.00	\$ 140.00	\$ 0.00



## Final Narrative Rachel

### About Dr.'s Mark & Diane Sofia

Dr Mark Sofia, a native of Melrose, completed his pre-chiropractic studies at Northeastern University. Dr Diane Sofia, a native of Whitman, completed her pre-chiropractic studies at Boston College. They both went on to earn Doctoral Degrees at New York Chiropractic College in upstate New York. During their internships, Dr Mark Sofia became interested in neurology, nutrition and sports injuries, and has taught review courses on the state and national levels. Currently he teaches Anatomy and Physiology at a local college and holds a position on the NCMIC National Speaker's Bureau. Dr. Diane Sofia became interested in pediatrics and maternal patient care. Dr.'s Mark & Diane Sofia have attended numerous post doctoral seminars in order to keep current with the latest developments in chiropractic research so that their patients may benefit from the most advanced and scientific techniques and procedures available. Diversified adjusting techniques, Cox flexion-distraction and Activator methods are the most often used by the doctors. These techniques allow for gentle yet effective treatment of the spine. Dr.'s Mark & Diane Sofia are members of the American Chiropractic Association, Massachusetts Chiropractic Society and are Diplomates to the National Board of Chiropractic Examiners. Both doctors are licensed to practice in Massachusetts. Dr.'s Mark & Diane Sofia have a beautiful daughter and a new baby boy and reside in The Merrimack Valley.

# Sofia Chiropractic

*Motion is Life!*

DO YOU SUFFER FROM  
BACK OR NECK PAIN?

Dr Mark Sofia

VISIT

Dr Diane Sofia



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[www.sofiachiropractic.com](http://www.sofiachiropractic.com)



Patient: Rachel -----  
Date: 11/15/04  
Date of Injury: 8/26/04

The patient states that on 8/26/04 she was the restrained driver of a vehicle who was stopped in a line of traffic. She states that she was hit from behind at a high rate of speed crushing her car into the car in front of her. The car was a total loss. She went to the Holy Family Hospital where she was evaluated and released with medication. She states that she had injured her neck and left shoulder during the impact and has had severe pain in the right side of her low back extending into her right SI joint. Mrs. reports at her initial office visit that she is experiencing a new severe complaint of constant pain bilaterally in the area of the neck. She stated that she is enduring a new complaint of severe constant pain on the left in the area of the shoulder. She further related that there is a new constant complaint severe pain in the right sacroiliac area.

## **HISTORY:**

The patient denies any history of recent change in her general state of health and denies any general problems as well as any recent weight change, fever, chills, sweats, allergies, anemia, or issues with bleeding and bruising.

The patient's family history indicated no diabetes, thyroid disease, tuberculosis, renal disease, heart disease, or musculoskeletal disease. The patient's history reveals that her father and herself suffer from hypertension and that her mother suffered from liver cancer.

The patient denies any endocrine disorders such as heat or cold intolerance, thyroid disease, diabetes or neck surgery.

Review of the patient's eyes, ears, nose and throat history revealed corrected visual dysfunction, and right-sided tinnitus. The patient denies hearing loss, epistaxis, hoarseness, sinusitis, vertigo or dental problems.

The patient denies any gastrointestinal disorders such as nausea, vomiting, hematemesis, ulcers, dysphagia, indigestion, heartburn, abdominal pain or swelling, hematochezia, melena, diarrhea, constipation, hernia, hemorrhoids, gallbladder, liver or pancreatic disease. The patient's alcohol intake consists of two to four alcoholic beverages per month.

Review of the patient's pulmonary system revealed no history of dyspnea, cough or sputum production, hemoptysis, wheezing, asthma, tuberculosis or tuberculosis exposure, previous chest radiographs, respiratory infection, pneumonia, smoking or toxic environmental inhalation.

The patient has an adequate exercise level and denies any history of the following cardiovascular diseases: orthopnea, paroxysmal nocturnal dyspnea, chest pain, palpitations, edema, claudication, heart disease or rheumatic fever.

Review of the patient's genitourinary system revealed a history of abnormal urinary frequency and mild incontinence. The patient denies urgency, dysuria, nocturia, hematuria, hesitancy, urethral discharge, genital lesions or pain, syphilis, gonorrhea, HIV, flank pain, urinary tract infection or renal disease.

Review of the patient's female genitalia reveals no pelvic pain or vaginal discharge. The patient states that onset of menses began at age 13. The patient's cycle is approximately 28 days long. The patient's duration and flow of menses are normal. The patient states she has had no masses of cysts in her pelvic region.

The patient has recently performed a self-breast exam and reports no lumps, pain or discharge from her nipples.

Review of the patient's sexual history reveals no pain during intercourse. The patient has had a tubal ligation.

Review of the patient's skin revealed no history of itching, rash, changes in moles or skin cancer.

Review of the patient's neurological systems revealed no history of headaches, epileptic seizures, dizziness, sensory disturbances, weakness, head trauma, or stroke.

Review of the patient's musculoskeletal system revealed no previous history of joint pain, stiffness or swelling, low back pain, neck pain, thoracic pain, upper or lower extremity problems, fractures, sprains, dislocations or other injuries.

Review of the patient's psychiatric history revealed no history of anxiety, depression, or hospitalization.

The patient denies any abuse of drugs.

The patient's environmental factors include: an average of five to eight hours of sleep each night of less than acceptable quality, no occupational exposures, an acceptable diet, and has two to four alcoholic drinks per month in the form of beer or wine.

**PHYSICAL EXAM:**

The patient's vital signs include: an oral temperature of 98.1 degrees, blood pressure on the right is 140/100, blood pressure on the left was 142/100.

The patient is 5'6" tall and 144 pounds. General examination by inspection revealed normal general appearance, body habitus, hair, skin, nails and speech.

The patient is right hand dominant.

Structural examination revealed right head tilt, a high left shoulder, even iliac crest, and level scapula. Inspection of the patient's lower extremity alignment revealed the feet, ankles, and knees to be normal. The patient's gait, tandem gait, toe and heel walk, were all observed and re-created the patient's low back complaint. The scoliosis examination revealed no scoliosis and Adams position was normal. The anterior to posterior spinal curvatures were observed as unremarkable.

The cervical and dorsolumbar spine ranges of motion were performed actively and passively in flexion, extension, right and left lateral flexion and rotation, and revealed the following.

<b>CERVICAL</b>		
<b>MOTION</b>	<b>(Normal)</b>	<b>Degrees</b>
Flex:	(45 Normal)	40 Degrees
Ext:	(45 Normal)	40 Degrees
L Rotation:	(80 Normal)	60 Degrees
R Rotation:	(80 Normal)	60 Degrees
L Lat. Flex:	(45 Normal)	20 Degrees
R Lat. Flex:	(45 Normal)	20 Degrees

All cervical ROM produced pain that was increased on the left.

<b>LUMBAR</b>		
<b>MOTION</b>	<b>(Normal)</b>	<b>Degrees</b>
Flex:	(90 Normal)	45 Degrees
Ext:	(30 Normal)	10 Degrees
L Rotation:	(30 Normal)	10 Degrees
R Rotation:	(30 Normal)	10 Degrees
L Lat. Flex:	(30 Normal)	10 Degrees
R Lat. Flex:	(30 Normal)	10 Degrees

All lumbar ROM produced pain that was increased bilaterally.

Cranial nerves I through XII were all tested and were unremarkable.

All tests for cerebellar and posterior column disease were performed and found to be within normal limits. Romberg's sign and intention tremors were not present.

Examination of the neck and lymph nodes proved normal upon *inspection*. No carotid bruits were detected and vertebral artery screening as assessed through George's Cerebrovascular Craniocervical Function Test and proved to be unremarkable.

Breast examination was not performed. The patient performs monthly self-examinations and is aware of the proper examination technique.

Cardiovascular examination revealed normal auscultation. No systolic or diastolic murmurs were detected. No edema was present in the legs. The test for venous pressure was not performed. No bruits were detected. The patient's blood pressure was above normal limits.

Sensory evaluation of the dermatomal areas of the neck, upper extremities, trunk and lower extremities as assessed by bilateral Wartenberg wheel testing revealed a decrease of sensation at C5 on the left.

Motor evaluation by muscle testing was performed bilaterally and were given the grade of '5' bilaterally for the following muscle groups: the deltoids, C5; the wrist extensors, C6; the biceps, C5-6; the wrist flexors, C7; the finger flexors, C8; the finger abductors and adductors, T1; all of the lower extremity muscle groups tested '5' bilaterally; the hip flexors, L1-3; the hip abductors, L2-4; the knee extensors, L2-4; the ankle dorsiflexors, L4-5; the ankle plantar flexors, L5; the hip abductors, L5; the knee flexors, L5-S1; and the hip extensors, S1.

Deep tendon reflexes were equal and reactive bilaterally and were given the Wexler grade of '+2' for biceps reflex C5, knee jerk reflex L4, ankle jerk reflex S1.

The plantar reflex was elicited and was downward.

## **ORTHOPEDIC TESTING:**

Orthopedic exam of the cervical spine and glenohumeral joint elicited positive findings for the following orthopedic tests: Valsalva, Cervical Compression, Cervical Distraction, Apprehensions

Orthopedic exam of the cervical spine and glenohumeral joint was unremarkable with respect to the following orthopedic tests: Dugas

Orthopedic exam of the lumbar spine elicited positive findings for the following orthopedic tests: Valsalva, Kemp's, Sitting Root, Braggart's

## **DIAGNOSIS**

**847.0 strain/sprain cervical**

**719.41 shoulder joint pain**

**847.2 strain/sprain lumbar**



## **DISABILITY**

From the date of the accident on 8/26/04 for a period of one week the patient was totally disabled. A partial disability kept the patient from returning to full duty at work for an additional 10 weeks.

The patient is engaged in a strengthening program and is showing improvement. However, to some degree, the patient may always retain a portion of functional disability not to exceed 18%.

I certify that all enclosed material is accurate and true to the best of my knowledge and that I am duly licensed physician in the Commonwealth of Massachusetts. Subscribed and sworn to under the pains and penalties of perjury, pursuant to *M.G.L., ch. 233, s. 79G*.

Respectfully,

Dr. Mark Sofia

**Tuesday, December 23, 2003**

**Subjective:** On today's visit, Mrs. reported that she has been feeling constant moderately severe pain bilaterally in the lower back area. Mrs. also stated that she has been experiencing constant severe pain in the right knee.

**Objective:** There is a severe spasticity of the muscles in the lumbar paraspinal muscles bilaterally elicited on palpation. A severe pain intensity at L3 to L5 bilaterally was revealed by palpation examination.

**Assessment:** The patient is determined to be in an acute phase.

**Plan:** The patient is not reschedule but will call if the symptoms should recur. Home exercises was advised to increase the strength of the postural support muscles in the right knee. Interferential therapy was administered to the right knee. This treatment is given to induce muscle relaxation and strengthening, and to decongest tissue. The thoracic area, and region of the low back received segmental mobilizing technique to promote functional mobility.

MRS

**Tuesday, September 7, 2004**

**Comment:** Patient telephoned and cancelled today's scheduled appointment.

MRS

**Wednesday, September 8, 2004**

The patient presented for a routine appointment that she had scheduled for last week but failed to present for it and reschedule for today. Upon her arrival we learned that it was not a routine visit but that she had been involved in a motor vehicle accident and was in need a new history and physical exam. The patient was rescheduled for a full exam.

MRS

**Monday, September 13, 2004**

**Subjective:** The patient states that on 8/26/04 she was the restrained driver of a vehicle who was stopped in a line of traffic. She states that she was hit from behind at a high rate of speed crushing her car into the car in front of her. The car was a total loss. She went to the Holy Family Hospital where she was evaluated and released with medication. She states that she had injured her neck and left shoulder during the impact and has had severe pain in the right side of her low back extending into her right SI joint. Mrs. reports today at her office visit that she is experiencing a new severe complaint of constant pain bilaterally in the area of the neck. She stated that she is enduring a new complaint of severe constant pain on the left in the area of the shoulder. She further related that there is a new constant complaint severe pain in the right sacroiliac area.

**Objective:** An evaluation of the musculature revealed a complete spasm in the suboccipital muscles bilaterally, cervical paraspinal muscles bilaterally, upper thoracic

muscles on the left, lumbar paraspinal muscles on the right and gluteal muscles on the right. In checking the spinal tissues for pain, there was clear indication of a fairly severe pain at T1 to T4 on the left, L3 to L5 and the right ilium on the right, and C1 to C7 bilaterally.

Assessment: The patient is suffering an acute condition.

Plan: The patient was given a full history and physical today. In order to promote functional mobility, segmental mobilizing technique was administered to the region of the thoracic spine, low back region, and cervical spinal area. Treatment consisted of heat therapy to the cervical area, low back region, and shoulder. The purpose is to increase circulation and relax muscles. Therapy included interferential current therapy to the cervical spinal region, lumbar spinal area, and shoulder to allow tissue decongestion, and strengthen the muscles. The doctor applied electrical stimulation for 15 minutes.

MRS

**Wednesday, September 15, 2004**

Subjective: Mrs. enters the office for today's visit and states that she is having severe constant pain bilaterally in the neck area. She reports she has developed a new constant complaint of severe shoulder pain on the left. She also stated that she has developed a new complaint of constant severe pain in the right sacroiliac area.

Objective: On palpation, a severe muscle spasm in the suboccipital muscles bilaterally, cervical paraspinal muscles bilaterally, upper thoracic muscles on the left, lumbar paraspinal muscles on the right and gluteal muscles on the right was elicited. There is evidence elicited on palpation of a severe intensity of pain at T1 to T4 on the left, L3 to L5 and the right ilium on the right, and C1 to C7 bilaterally.

Assessment: Patient is in an acute care program.

Plan: The patient will return three times weekly until a brief reexam indicates a revision in schedule. Therapy included segmental mobilizing technique to the thoracic spinal region, lumbar spinal region, and area of the cervical spine to reduce fixation and encourage increased mobility. In order to stimulate local circulation, heat therapy was administered to the neck, lumbar spinal area, and shoulder. In order to decongest the soft tissues, while relaxing and strengthening the muscles, interferential was administered to the cervical spine, region of the low back, and shoulder. The doctor applied electrical stimulation for 15 minutes.

MRS

**Thursday, September 16, 2004**

Subjective: Mrs. stated on her visit today that she's experiencing a new complaint of severe constant left and right neck pain. In addition, Mrs. states that she has been suffering a severe new complaint of constant pain in the left shoulder. She further stated that there is a new constant complaint severe pain in the right sacroiliac area.

Objective: In checking for muscular hypertonicity, a marked spasticity in the suboccipital muscles bilaterally, cervical paraspinal muscles bilaterally, upper thoracic muscles on the left, lumbar paraspinal muscles on the right and gluteal muscles on the right was found. Digital inspection of the spinal tissues

revealed a very strong degree of pain and discomfort at T1 to T4 on the left, L3 to L5 and the right ilium on the right, and C1 to C7 bilaterally.

Assessment: The patient is suffering acute symptoms.

Plan: The patient will return three times weekly until a brief reexam indicates a revision in schedule. Intersegmental traction was administered to the thoracic spinal area, lumbar region, and cervical spine. This treatment is given to encourage motion and release fixation. Heat therapy was administered to the neck, lumbar area, and shoulder. This treatment is given to produce deep heating in the paraspinal tissues. In order to allow tissue decongestion, and strengthen the muscles, interferential current therapy was administered to the cervical spine, lumbar region, and shoulder. The doctor applied electrical stimulation for 15 minutes.

MRS

**Monday, September 20, 2004**

Subjective: On today's appointment, Mrs. : reported that she's experiencing a new complaint of severe constant left and right neck pain. Additionally, she states that she is enduring a new complaint of severe constant pain on the left in the area of the shoulder. This patient also reported that she has started to feel constant severe right sacroiliac pain. The patient complains today of ankle pain and is referred to a local podiatrist.

Objective: On palpation, the paraspinal muscles demonstrated a complete spasm in the suboccipital muscles bilaterally, cervical paraspinal muscles bilaterally, upper thoracic muscles on the left, lumbar paraspinal muscles on the right and gluteal muscles on the right. A severe pain at T1 to T4 on the left, L3 to L5 and the right ilium on the right, and C1 to C7 bilaterally was elicited on palpation of the spinal tissues.

Assessment: The patient is suffering acute symptoms.

Plan: Anticipating a reexamination, patient will return three times per week. The thoracic spinal region, region of the low back, and cervical spinal area received intersegmental mobilization to increase functional mobility. The cervical spine, low back area, and shoulder received heat therapy to reduce muscle tension and encourage circulatory flow. Therapy included interferential current therapy to the cervical spinal area, region of the low back, and shoulder to promote strengthening and relaxation of the muscles, while promoting soft tissue decongestion. The doctor applied electrical stimulation for 15 minutes.

MRS

**Wednesday, September 22, 2004**

Subjective: Mrs. : enters the office for today's visit and states that she has started to feel constant severe neck pain bilaterally. She reports she is feeling a new complaint of severe constant pain in the left shoulder region. She also stated that she has developed a new complaint of constant severe pain in the right sacroiliac area.

Objective: In checking for muscle rigidity, a severe muscle spasm in the suboccipital muscles bilaterally, cervical paraspinal muscles bilaterally, upper thoracic muscles on the left, lumbar paraspinal muscles on the right and gluteal muscles on the right was determined. Digital inspection of the spinal tissues revealed a very intense level of pain and discomfort at T1 to T4 on the left, L3 to L5 and the right ilium on the right, and C1 to C7 bilaterally.

Assessment: The patient is determined to be in an acute phase.

Plan: Return frequency will be 3 visits weekly, until reconsidered by reexamination. Intersegmental mobilization was given to the thoracic area, area of the low back, and neck. The effect is to decrease joint restriction and help to improve range of motion. To increase circulation and relax muscles, heat therapy was administered to the cervical spinal region, lumbar spine, and shoulder. Therapy included interferential therapy to the neck, region of the low back, and shoulder to induce muscle relaxation and strengthening, and to decongest tissue. The doctor applied electrical stimulation for 15 minutes.

MRS

**Thursday, September 23, 2004**

Subjective: On today's appointment, Mrs. : reported that she has started to feel constant severe neck pain bilaterally. Additionally, she states that she's developed a severe constant pain in the area of the left shoulder. This patient also reported that she has developed a new complaint of constant severe pain in the right sacroiliac area.

Objective: Palpation of the muscles revealed a severe muscle spasm in the suboccipital muscles bilaterally, cervical paraspinal muscles bilaterally, upper thoracic muscles on the left, lumbar paraspinal muscles on the right and gluteal muscles on the right. A strong pain level at T1 to T4 on the left, L3 to L5 and the right ilium on the right, and C1 to C7 bilaterally was exhibited on palpation of the vertebral segments and the surrounding tissue.

Assessment: The patient's condition is acute.

Plan: Three visits per week is warranted until modified by reexamination. Intersegmental mobilization was given to the region of the thoracic spine, region of the low back, and area of the cervical spine. The effect is to decrease hypertonicity of the paraspinal muscles and improve spine mobility. Treatment consisted of heat therapy to the cervical area, lumbar spinal area, and shoulder, in order to improve blood circulation. In order to decongest the soft tissues, while relaxing and strengthening the muscles, interferential current therapy was administered to the cervical spinal region, low back area, and shoulder. The doctor applied electrical stimulation for 15 minutes.

MRS

**Monday, September 27, 2004**

Subjective: The patient enters the office today with a report that she has started to feel constant severe neck pain bilaterally. In addition, she states that there has been a new severe constant pain felt on the left in the shoulder. This patient further stated that she has started to feel constant severe right sacroiliac pain.

Objective: An evaluation of the musculature revealed a severe spasticity of the muscles in the suboccipital muscles bilaterally, cervical paraspinal muscles bilaterally, upper thoracic muscles on the left, lumbar paraspinal muscles on the right and gluteal muscles on the right. Spinal examination was carried out by palpation and inspection. There was a very strong degree of pain and discomfort at T1 to T4 on the left, L3 to L5 and the right ilium on the right, and C1 to C7 bilaterally.

Assessment: The patient's condition is acute.

Plan: The patient's condition indicates the need for a visit frequency of three times per week, until reexamination. In order to increase functional mobility, intersegmental traction was administered to the thoracic spinal area, low back region, and area of the cervical spine. Therapy included heat therapy to the area of the cervical spine, lumbar spinal area, and shoulder to stimulate an increase in circulation. Interferential current therapy was administered to the cervical spine, region of the low back, and shoulder. This treatment is given to provide for muscle strengthening while encouraging tissue decongestion. The doctor applied electrical stimulation for 15 minutes.

MRS

**Tuesday, September 28, 2004**

**Subjective:** Mrs. entered the office today and stated that she has been feeling a slight bit better in the left and right cervical area. She states that her left shoulder pain is slightly better. The patient further stated that her right sacroiliac area is slightly better today.

**Objective:** Evaluation of the muscles showed a complete spasm in the suboccipital muscles bilaterally, cervical paraspinal muscles bilaterally, upper thoracic muscles on the left, lumbar paraspinal muscles on the right and gluteal muscles on the right. An analysis of the spinal tissues by digital palpation showed a severe pain at T1 to T4 on the left, L3 to L5 and the right ilium on the right, and C1 to C7 bilaterally.

**Assessment:** The patient is determined to be in an acute phase.

**Plan:** The patient's condition indicates the need for a visit frequency of three times per week, until reexamination. In order to promote functional mobility, segmental mobilizing technique was administered to the thoracic region, lumbar spinal area, and neck. Treatment consisted of heat therapy to the cervical spine, lumbar area, and shoulder. The purpose is to produce within the involved tissues an increase circulation flow. To induce muscle relaxation and strengthening, and to decongest tissue, the area of the cervical spine, lumbar spinal area, and shoulder received interferential therapy.

MRS

**Wednesday, September 29, 2004**

**Subjective:** The patient entered for today's visit and related that there has been some general improvement in the cervical pain bilaterally. She also stated that she is having a slight degree of improvement of pain on the left in the shoulder area. Additionally, Mrs. reports she is having a little less pain today in the right SI joint region.

**Objective:** On palpation, the paraspinal muscles demonstrated a complete spasm in the suboccipital muscles bilaterally, cervical paraspinal muscles bilaterally, upper thoracic muscles on the left, lumbar paraspinal muscles on the right and gluteal muscles on the right. An exquisite degree of pain at T1 to T4 on the left, L3 to L5 and the right ilium on the right, and C1 to C7 bilaterally was revealed by palpation examination.

**Assessment:** The patient is suffering an acute condition.

**Plan:** The patient will return two times weekly until a brief reexam indicates a revision in the visit schedule. To encourage and increase in functional range of motion, the thoracic area, region of the low back, and cervical spine received intersegmental traction. Heat therapy was given to the neck area, lumbar area, and shoulder. The effect is to promote healing by increased circulatory flow. Treatment consisted of interferential to the neck area, lumbar spinal area, and shoulder, in order to decongest the soft tissues, while relaxing and strengthening the muscles. Manual adjustment was given to the thoracic area. The effect is to reduce fixation and restore functional mobility. The patient has been re-evaluated and the treatment plan has been adjusted accordingly. The doctor applied electrical stimulation for 15 minutes.

MRS

**Monday, October 4, 2004**

**Subjective:** The patient stated on her visit today that there has been a modest amount of improvement in the pain felt bilaterally in the neck. Additionally, she stated that she is experiencing some slight

reduction of pain and discomfort in the shoulder on the left. She reported that she is having a little less pain today in the right SI joint region.

**Objective:** In checking for muscular hypertonicity, a marked spasticity in the suboccipital muscles bilaterally, cervical paraspinal muscles bilaterally, upper thoracic muscles on the left, lumbar paraspinal muscles on the right and gluteal muscles on the right was found. A severe pain at T1 to T4 on the left, L3 to L5 and the right ilium on the right, and C1 to C7 bilaterally was found on palpation of the spine.

**Assessment:** The patient is determined to be in an acute phase.

**Plan:** Return schedule will be for twice weekly, until reconsideration at the next reexamination. Intersegmental traction was recommended to mobilize the individual segments, and promote increased functional motion in the region of the thoracic spine, lumbar spinal area, and cervical spine. To reduce muscle tension and encourage circulatory flow, the neck area, low back area, and shoulder received heat therapy. Treatment consisted of interferential current therapy to the cervical area, region of the low back, and shoulder. The purpose is to decongest the soft tissues, while relaxing and strengthening the muscles. Manual manipulation was recommended to correct spinal misalignment in the thoracic spinal area. The doctor applied electrical stimulation for 15 minutes.

MRS

**Thursday, October 7, 2004**

**Subjective:** The patient entered for today's visit and related that there has been some general improvement in the cervical pain bilaterally. She also stated that she is having a slight degree of improvement of pain on the left in the shoulder area. Additionally, Mrs. reports she is having a little less pain today in the right SI joint region.

**Objective:** On palpation, the paraspinal muscles demonstrated a complete spasm in the suboccipital muscles bilaterally, cervical paraspinal muscles bilaterally, upper thoracic muscles on the left, lumbar paraspinal muscles on the right and gluteal muscles on the right. An exquisite degree of pain at T1 to T4 on the left, L3 to L5 and the right ilium on the right, and C1 to C7 bilaterally was revealed by palpation examination.

**Assessment:** The patient is suffering an acute condition.

**Plan:** The patient will return two times weekly until a brief reexam indicates a revision in the visit schedule. To encourage and increase in functional range of motion, the thoracic area, region of the low back, and cervical spine received intersegmental traction. Heat therapy was given to the neck area, lumbar area, and shoulder. The effect is to promote healing by increased circulatory flow. Treatment consisted of interferential to the neck area, lumbar spinal area, and shoulder, in order to decongest the soft tissues, while relaxing and strengthening the muscles. Manual adjustment was given to the thoracic area. The effect is to reduce fixation and restore functional mobility. The doctor applied electrical stimulation for 15 minutes.

MRS

**Thursday, October 14, 2004**

**Subjective:** On today's appointment, Mrs. : reported that she has been feeling a slight bit better in the left and right cervical area. Additionally, she states that there has been a modest amount of improvement in the left shoulder pain. This patient also reported that she is feeling slightly better in the right sacroiliac area.

**Objective:** Tonicity of the muscles was tested and a severe muscle spasm in the suboccipital muscles bilaterally, cervical paraspinal muscles bilaterally, upper thoracic muscles on the left, lumbar paraspinal

muscles on the right and gluteal muscles on the right was elicited. Today's evaluation of the spine included a check for pain at the segmental level. There was a severe pain intensity at T1 to T4 on the left, L3 to L5 and the right ilium on the right, and C1 to C7 bilaterally.

**Assessment:** The nature of this patient's condition is acute.

**Plan:** Return schedule will be for twice weekly, until reconsideration at the next reexamination. To reduce fixation and encourage increased mobility, intersegmental traction was administered to the thoracic spinal area, area of the low back, and neck area. Heat therapy was given to the neck area, lumbar spine, and shoulder. The effect is to promote healing by increased circulatory flow. Interferential therapy was administered to the cervical area, lumbar spine, and shoulder. This treatment is given to decongest tissue, and relax and strengthen the muscles. Adjustment was recommended to release fixation subluxation and improve the functional mobility in the thoracic area. The doctor applied electrical stimulation for 15 minutes.

MRS

**Monday, October 18, 2004**

**Comment:** Patient telephoned and cancelled today's scheduled appointment.

MRS

**Tuesday, October 19, 2004**

**Subjective:** Mrs. entered the office today and stated that she has been feeling a slight bit better in the left and right cervical area. She also states that her left shoulder pain is slightly better. She states that there is a modest amount of improvement in the amount of pain felt in the right sacroiliac area. The patient further stated that she is having a flare-up of pain on the right in the lumbar spine area.

**Objective:** Evaluation of the muscles showed a severe hypertonic muscle spasm in the suboccipital muscles bilaterally, cervical paraspinal muscles bilaterally, upper thoracic muscles on the left, lumbar paraspinal muscles on the right and gluteal muscles on the right. On palpation examination there was elicited a severe pain at T1 to T4 on the left, L3 to L5 and the right ilium on the right, and C1 to C7 bilaterally.

**Assessment:** The patient has shown some progress but is in a subacute phase.

**Plan:** Anticipating a reexamination, patient will return two times per week. Therapy included intersegmental mobilization to the area of the thoracic spine, lumbar region, and neck area to increase functional mobility. To produce deep heating in the paraspinal tissues, the cervical area, lumbar spinal region, and shoulder received heat therapy. Interferential was given to the area of the cervical spine, area of the low back, and shoulder. The effect is to induce muscle relaxation and strengthening, and to decongest tissue. Manual adjustment was given to the region of the thoracic spine. The effect is to reduce fixation and restore functional mobility. The patient is instructed if her low back pain continues remains intense films will be requested.

MRS

**Thursday, October 21, 2004**

**Subjective:** The patient stated that on today's visit that her left and right cervical pain has been feeling general improvement lately. He states that she has noted a slight degree of improvement in the left shoulder pain. Mrs. : further stated that she is feeling slightly better in the right sacroiliac area. In addition to these complaints the patient stated that she is feeling aggravation of pain in the low back



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area on the right. The patient continued to complain of middle back irritation and films were performed.

**Objective:** Evaluation of the muscles showed a severe spasticity of the muscles in the suboccipital muscles bilaterally, cervical paraspinal muscles bilaterally, upper thoracic muscles on the left, lumbar paraspinal muscles on the right and gluteal muscles on the right. Examining the spinal tissues for pain revealed a strong pain level at T1 to T4 on the left, L3 to L5 and the right ilium on the right, and C1 to C7 bilaterally.

**Assessment:** The patient's symptoms reflect an intermediate subacute nature.

**Plan:** The patient's condition indicates the need for two visits weekly until the next reexamination. Intersegmental traction was administered to the thoracic region, lumbar region, and neck area. This treatment is given to encourage and increase in functional range of motion. Heat therapy was given to the cervical area, lumbar region, and shoulder. The effect is to increase circulation in the paraspinal tissues. In order to decongest the soft tissues, while relaxing and strengthening the muscles, interferential was administered to the cervical spine, lumbar spinal region, and shoulder. To correct subluxation and reduce vertebral fixation, the area of the thoracic spine received manual manipulation. Films were taken today of the region in complaint. The doctor applied electrical stimulation for 15 minutes.

MRS

**Monday, October 25, 2004**

**Comment:** Patient telephoned and cancelled today's scheduled appointment.

MRS

**Wednesday, October 27, 2004**

**Subjective:** The patient stated that on today's visit that her left and right cervical pain has been feeling general improvement lately. He states that there has been a modest amount of improvement in the left shoulder pain. Mrs. : further stated that her right sacroiliac area is slightly better today. In addition to these complaints the patient stated that she is feeling aggravation of pain in the low back area on the right.

**Objective:** The muscles showed a severe amount of hypertonic contraction in the suboccipital muscles bilaterally, cervical paraspinal muscles bilaterally, lower thoracic muscles on the right and lumbar paraspinal muscles on the right. On examination of the spine by palpation, there was a moderate pain level at L4 on the left, T10 to L1 on the right, and C2 to C6 and L2 to L3 bilaterally.

**Assessment:** The patient's condition has reached an intermediate stage.

**Plan:** The patient's condition indicates the need for two visits weekly until the next reexamination. Intersegmental mobilization was given to the area of the thoracic spine, lumbar area, and cervical area. The effect is to decrease joint restriction and help to improve range of motion. Heat therapy was recommended to produce deep heating in the paraspinal tissues in the cervical spine, lumbar area, and shoulder. The neck area, area of the low back, and shoulder received interferential current therapy to allow tissue decongestion, and strengthen the muscles. Adjustment was given to the thoracic spine. The effect is to reduce fixation and restore functional mobility. The patient has been re-evaluated and the treatment plan has been adjusted accordingly.

MRS

**Thursday, October 28, 2004**

**Subjective:** The patient entered for today's visit and related that there has been some general improvement in the cervical pain bilaterally. She also stated that she is having a slight degree of improvement of pain on the left in the shoulder area. Additionally, Mrs. reports she is having a little less pain today in the right SI joint region. Finally she states that she's been feeling pretty much the same. Her right low back pain is essentially unchanged.

**Objective:** An evaluation of the musculature revealed a severe amount muscle tension and stiffness in the suboccipital muscles bilaterally, cervical paraspinal muscles bilaterally, lower thoracic muscles on the right and lumbar paraspinal muscles on the right. On palpation of the spinal segments there was a moderate level of pain and discomfort at L4 on the left, T10 to L1 on the right, and C2 to C6 and L2 to L3 bilaterally.

**Assessment:** The patient's condition has progressed to the subacute phase.

**Plan:** The patient's condition indicates weekly visits until reexamination. Therapy included intersegmental mobilization to the thoracic spine, lumbar spinal region, and cervical spinal area to decrease joint restriction and help to improve range of motion. Heat therapy was administered to the cervical area, lumbar spinal region, and shoulder. This treatment is given to stimulate an increase in circulation. In order to allow tissue decongestion, and strengthen the muscles, interferential current therapy was administered to the area of the cervical spine, lumbar spine, and shoulder. Therapy included manual adjustment to the area of the thoracic spine to reduce misalignment and fixation. The patient has been re-evaluated and the treatment plan has been adjusted accordingly.

MRS

**Tuesday, November 2, 2004**

**Comment:** Patient did not arrive for scheduled appointment.

MRS

**Thursday, November 4, 2004**

**Subjective:** On today's appointment, Mrs. reported that there is slight degree of reduced neck pain bilaterally. Additionally, she states that she is experiencing some slight reduction of pain and discomfort in the shoulder on the left and her right sacroiliac area is slightly better today. This patient also reported that the pain in her right lumbar region continues to feel about the same.

**Objective:** Palpation of the muscles revealed a severe degree of muscle tightness and stiffness in the suboccipital muscles bilaterally, cervical paraspinal muscles bilaterally, lower thoracic muscles on the right and lumbar paraspinal muscles on the right. The spinal tissues were evaluated by palpation and showed evidence of a medium level of pain at L4 on the left, T10 to L1 on the right, and C2 to C6 and L2 to L3 bilaterally.

**Assessment:** The patient's condition has reached an intermediate stage.

**Plan:** In two weeks the patient is scheduled to return for treatment. Segmental mobilizing technique was administered to the thoracic area, region of the low back, and cervical spinal region. This treatment is given to promote functional mobility. Heat therapy was advised to promote healing by increased circulatory flow in the neck, lumbar spinal area, and shoulder. Interferential was advised to decongest the soft tissues, while relaxing and strengthening the muscles in the cervical spinal area, lumbar area, and shoulder. Manual manipulation was advised to correct subluxation of the vertebral segments in the thoracic spinal region. The doctor applied electrical stimulation for 15 minutes.

MRS

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**Monday, November 15, 2004**

**Subjective:** Mrs. reported that there is slight degree of reduced neck pain bilaterally. She also stated that she is having a slight degree of improvement of pain on the left in the shoulder area. In addition, Mrs. related that her right sacroiliac area is slightly better today. The patient also indicated she continues to experience persistent pain on the right in the lumbar area.

**Objective:** An evaluation of the musculature revealed a severe amount of hypertonic contraction in the suboccipital muscles bilaterally, cervical paraspinal muscles bilaterally, lower thoracic muscles on the right and lumbar paraspinal muscles on the right. There is evidence elicited on palpation of a moderate degree of pain at L4 on the left, T10 to L1 on the right, and C2 to C6 and L2 to L3 bilaterally.

**Assessment:** A plateau in recovery has been reached and there hasn't been any demonstrable progress in recent visits.

**Plan:** To reduce fixation and encourage increased mobility, intersegmental traction was administered to the region of the thoracic spine, lumbar region, and cervical area. Heat therapy was advised to locally stimulate circulation in the cervical area, lumbar spine, and shoulder. Therapy included interferential current therapy to the neck area, region of the low back, and shoulder to provide for muscle strengthening while encouraging tissue decongestion. Treatment consisted of manipulation to the area of the thoracic spine. The purpose is to improve vertebral alignment and increase mobility. The patient has been evaluated and discharged as of today.

MRS

**Thursday, June 29, 2006**

**Subjective:** On today's office visit, Mrs. stated that the left and right cervical pain has shown some mild improvement since the last visit. She also stated that she is experiencing some slight reduction of pain and discomfort in the shoulder on the left. She narrated that she is feeling slightly better in the right sacroiliac area and the pain in her right lumbar region continues to feel about the same. Lastly, Mrs. states that she's been feeling a new complaint of constant severe pain along the midline in the upper back region.

**Objective:** An evaluation of the musculature revealed a severe amount of hypertonic contraction in the suboccipital muscles bilaterally, cervical paraspinal muscles bilaterally, lower thoracic muscles on the right and lumbar paraspinal muscles on the right, and a marked spasticity in the upper thoracic muscles bilaterally and mid thoracic muscles bilaterally. An exquisite degree of pain at T3 to T7 bilaterally and A moderate pain and discomfort at L4 on the left, T10 to L1 on the right, and C2 to C6 and L2 to L3 bilaterally was revealed by palpation examination.

**Assessment:** The patient is determined to be in an acute phase.

**Plan:** The patient will call for an appointment if the symptoms should return. Treatment consisted of segmental mobilizing technique to the thoracic spine, lumbar spinal area, and cervical spinal area, in order to promote functional mobility. Therapy included heat therapy to the cervical spine, low back area, and shoulder to locally stimulate circulation. Therapy included interferential therapy to the neck, lumbar spinal region, and shoulder to decongest tissue, and relax and strengthen the muscles. Treatment consisted of manual manipulation to the thoracic spine. The purpose is to reduce fixation and restore functional mobility.

MRS

**Wednesday, July 5, 2006**

**Comment:** Patient did not arrive for scheduled appointment.

MRS

# SAMPLE DEMAND LETTER

Date

Ms. Lynn Ann  
Claims Representative

PROPERTY CASUALTY

P.O. Box \_\_\_\_\_

\_\_\_\_\_, NH 03108

RE: My Clients:  
Your Insured: Auto Supply  
Date of Loss: May 25, 1999  
Claim No.:

## **Third Party Demand Letter**

Dear Ms. \_\_\_\_\_:

Kindly consider this letter to be a formal demand for settlement against \_\_\_\_\_'s insured, Salem Auto Supply, its agents, servants and/or employees. The claimants are \_\_\_\_ and \_\_\_\_\_. Mrs. \_\_\_\_\_ claims are for personal injuries, etc., and Mr. \_\_\_\_\_ claims are for loss of her consortium:

As you may know, Mrs. \_\_\_\_\_ was employed as a bank teller at the Family Bank branch located on Main Street, Hampstead, New Hampshire. She was then 29 years of age, and complained of none of the musculo-skeletal/neurological maladies of the type and kind suffered in the May 25, 1999 collision. In fact, Mrs. \_\_\_\_\_, who was and is a non-smoker/non-drinker, was otherwise in excellent health prior to this accident. Unfortunately, my client, Mrs. \_\_\_\_\_, was caused to suffer painful, permanent, and debilitating personal injuries as a direct and proximate result of the negligence of your insured, its agents, servants or employees, in the entrustment and operation of its motor vehicle.

### **I. Liability**

Specifically, all available reports and witnesses reveal that Mrs. \_\_\_\_\_ was traveling in a southerly direction along Route 28 in Salem, NH. There were two lanes of travel in the south bound lane. Mrs. \_\_\_\_\_ was operating her vehicle in the left lane, (closest to the center),

when suddenly and without any advanced warning, Mr. \_\_\_\_\_, the operator of your insured's vehicle, failed to yield the right of way to traffic on Route 28 while attempting to exit the Aleska Auto parking lot, and thereby caused the ensuing collision. Mr. \_\_\_\_\_ failure to yield the right of way to traffic on Route 28 constitutes a violation of New Hampshire law, and clearly caused and/or contributed to the resulting collision between the parties.

Please note that I have included all available reports and photographs to assist you in your evaluation of this claim.

## II. Physical Injuries and Treatment

Immediately following the May 25, 1999 accident, Mrs. \_\_\_\_\_ was transported, via ambulance, to the Holy Family Hospital's Emergency Department. Mrs. \_\_\_\_\_ reported to Emergency Physicians that at the time of the collision, "*she bumped her left forehead on the windshield frame [and] complained of headache and neck pain and mild left knee pain.*" A standard "Head, Ears, Eyes, Noes and Throat" (HEENT) examination revealed "*mild to moderate soft tissue swelling, consistent with a hematoma over the left forehead, which is tender.*" The examination disclosed further that Mrs. \_\_\_\_\_ exhibited "*. . . tenderness to palpation on the anterior aspect of the left knee without any swelling or discoloration . . .*" Significantly, a post accident x-ray revealed that a subcutaneous hematoma was forming, thus substantiating objectively, the original diagnosis.

Upon discharge, Mrs. \_\_\_\_\_ was diagnosed with the following conditions:

1. Hematoma Forehead;
2. Closed Head Injury; and
3. Contusion left knee (mild).

She was instructed to "*restrict activity,*" and was advised to apply an ice pack to the forehead region. She was cautioned to "*closely monitor and observe*" her signs and symptoms for the next 24 hours "*for signs and symptoms of head injury.*" She was then released with head injury instructions, and was advised to take Tylenol or Advil for her pain.

Thereafter, Mrs. \_\_\_\_\_ symptoms continued to intensify, causing her to seek follow-up care from her primary care physician, Mary E. Brooks, M.D. on May 28, 1999. On that date, Dr. Brooks took a history, and referenced the May 25, 1999 accident. Dr. Brooks emphasized that Mrs. \_\_\_\_\_ "*still has a mild headache,*" and noted further that "*her eyes are quite swollen and there are ecchymotic areas around both eyes as well as swelling of her forehead.*" With regard to her objective examination, the Doctor observed that "*There is a*

*marked ecchymotic area on the forehead. The nose and around the eyes are also ecchymotic and swollen.*” I have enclosed a photograph of Mrs. \_\_\_\_\_ which fairly and accurately depicts her condition following the incident. Additionally, Dr. Brooks wrote that *“There is some tenderness over the medial aspect of the left knee without edema.”* Dr. Brooks thereafter concluded that Mrs. \_\_\_\_\_ was suffering from *“Multiple contusions post MVA, slow to improve.”*

I have additionally included for your review, telephonic records of communications by and between Dr. Brooks and Mrs. \_\_\_\_\_ dated June 2, 1999 and June 10, 1999. On both occasions, Mrs. \_\_\_\_\_ complained of continuing dizziness, and problems associated with severe headache. On June 15, 1999, she had a follow-up visit with Dr. Brooks, who noted that the patient still complains of headaches and dizziness. Mrs. \_\_\_\_\_ was thereafter advised that if her complaints and symptoms continued, Dr. Brooks would refer her for a neurological work-up.

After being out of work from May 25, 1999 through June 2, 1999, Mrs. \_\_\_\_\_ attempted a return to work as a teller at Family Bank, but continued to experience severe headaches. Accordingly, she was referred to Jeffrey D. Rind, M.D., Ph.D., a neurologist, on August 6, 1999. Dr. Rind elicited a detailed history from Mrs. \_\_\_\_\_ wherein he referenced the May 25, 1999 accident. He noted within his initial report (enclosed) that *“At the moment, she still has episodes of dizziness which can occur at any point in the day and can last from minutes to hours, and they are associated with some lightheadedness. She also gets frequent headaches, often on a daily basis, some associated with light sensitivity and nausea as well.”* Objectively, Dr. Rind noted that his examination was significant for *“moderate end-gaze nystagmus.”*

Dr. Rind concluded that Mrs. \_\_\_\_\_ *“is having posttraumatic headaches. The dizziness is probably some sequelae of a mild post concussional syndrome. **She clearly developed a skull fracture after the accident, although admittedly the CAT scan does not show any signs of a fracture. I suspect that she will continue to have headaches for another few months, and very often headaches can persist for up to a year and I explained this to her.**”* In light of his examination and findings, Dr. Rind prescribed Midrin, and Zomig, both very powerful prescription medications commonly used to reduce the symptoms of a migraine headache. Dr. Rind then ordered Mrs. \_\_\_\_\_ to return in three months for follow-up.

On November 3, 1999, Mrs. \_\_\_\_\_ returned to Dr. Rind as instructed. She reported to him that although she experienced some relief after taking Midrin and Zomig, she experienced a severe headache which Zomig did not relieve. Dr. Rind noted in his office note that *“The headache lasted over a day and it came on over the course of minutes as an occipital intense headache radiating over occiput with nausea, vomiting, and photophobia, and it was unreleased by at least 5 mg of Zomig.”*

Dr. Rind opined further that he suspected that Mrs. \_\_\_\_\_ “has severe migraine.” In light of the ineffectiveness of the Zomig, Dr. Rind administered an Imitrex injection, and advised the patient how the self administer the injection should the headaches reoccur. Mrs \_\_\_\_\_ was instructed to return on an “as needed” basis.

To date, the following injuries have been causally related to the May 25, 1999 accident:

1. Skull Fracture;
2. Severe Migraine Headaches;
3. Post Concussion Dizziness and Mild Post Concussional Syndrome;
4. Nausea, Vomiting and Photophobia Associated With Severe Migraine Headaches;
5. Multiple Contusions Post MVA;
6. Marked Ecchymotic Areas Around the Forehead; Nose and Eyes; and
7. Contusion, Left Knee.

**III. Special Damages**

To date, the actual costs for the reasonable and necessary medical services rendered to Mrs. \_\_\_\_\_ total approximately \$2,060.00.<sup>1</sup> It is reasonable to assume that those costs and expenses will continue to increase due to the ongoing nature of Mrs. \_\_\_\_\_ continuing difficulties with accident induced Migraine Headaches. As you can see, the nature and extent of the treatment regiment to date has been extremely conservative, in light of the extent of the injuries sustained in this accident. Mrs. Hebbelinck’s resolve relative to getting

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1	1. Holy Family Hospital:	\$1,138.00
	2. Southern New Hampshire Medical Associates:	\$ 120.00
	3. Salem, NH Fire Department Ambulance:	\$ 209.00
	4. Caritas ER Group Medical:	\$ 127.00
	5. Northern Radiology:	\$ 176.00
	6. Jeffrey D. Rind, M.D.:	\$ 290.00

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***Total Medical Expenses to Date ..... \$2,060.00***



on with her life and returning to work have been admirable despite the fact that she continues to suffer daily with headaches: a problem that did not exist until the onset of this accident. Moreover, Mrs. \_\_\_\_\_ quality and/or enjoyment of life have been dramatically affected in that she has been unable to participate in activities that she previously enjoyed. She has noted on several occasions that simple pleasures like listening to music, or reading a novel can induce severe headaches. She has stated further that she has been unable to participate in prolonged physical activities such as taking walks with her husband, Louis, or playing with her 5 year old nephew, Val; something she enjoyed doing daily.

In light of the foregoing, and on behalf of our client, Mrs. Melinda \_\_\_\_\_, demand is hereby made in the amount of One Hundred Thousand and 00/100 (\$100,000.00.) Dollars.

With regard to Mr. \_\_\_\_\_, the factual basis for the consortium claims is as follows. With the exception of going out for medical appointments, Mrs. \_\_\_\_\_ was confined to her home for approximately one week following the accident. She did not drive herself to medical appointments because of lightheadedness, and anxiety relative to the operation of a car. Mr. \_\_\_\_\_ did the driving. Before the accident, Mrs. \_\_\_\_\_ did household errands, (going to the store for example), to pick up groceries or items needed at home. She also carried groceries into the house whether she or her husband had been out shopping, and assisted in unpacking the groceries. Before the accident, she did the cooking and cleaning at home unassisted. She also assisted in taking out the trash when necessary.

Due to her injury, Mr. \_\_\_\_\_ lost the benefit of these services until approximately November of 1999. Even after that time period, however, Mrs. \_\_\_\_\_ has been periodically prevented from carrying out some of these activities due to the physical limitations discussed in detail above. Moreover, because of severe bruising about her face, Mrs. \_\_\_\_\_ was extremely self-conscious about going anywhere in public, including but not limited to the movies or shopping malls, etc. The \_\_\_\_\_ did not have friends or relatives visit them at home. Due to the injuries sustained by Mrs. \_\_\_\_\_, Mr. \_\_\_\_\_ suffered a loss of his wife's companionship.

In light of the foregoing, and on behalf of our client, Mr. \_\_\_\_\_, demand is hereby made in the amount of Eleven Thousand Five Hundred and 00/100 (\$11,500.00) Dollars.

Ms. Lynn Ann  
Property Casualty  
Page \*6\*

Kindly review this demand package and advise me of Traveler's response within thirty (30) days from the date hereof. If I do not receive your response within that time frame, I will assume that you are denying liability, and will proceed accordingly.

I thank you in advance for your cooperation and prompt attention to this matter, and look forward to your reply.

Very truly yours,

Robert D. Armano

RDA/r  
encl.

Personal Injury Practice – Final Exam Fall 2013

GENERAL INSTRUCTIONS

When preparing your response, write as legibly as possible. If I cannot read your response, you will not receive credit for it. When preparing your answer, write only on the front page. Do not write on the back page.

Be certain to return the exam question with your response, and note your student identification number on the question as well. *I will not grade exam responses that do not contain the exam question.* Also, be certain to note your student identification number, and course name on the front of each blue book. If your response requires more than one blue book, be certain to number each book, (i.e. 1 of 3, 2 of 3, etc.) Return scrap books as well!

STUDENTS ARE REMINDED OF MSL'S POLICY CONCERNING CHEATING:

*"Students must not lie, cheat or steal, or tolerate among them those who do. Nor shall any student engage in conduct inconsistent with being a student of law. Conduct inconsistent with being a student of law includes violation of rules and regulations of the Law School, illegal activity involving moral turpitude, activity involving dishonesty, fraud, deceit or misrepresentation, or any other conduct which reflects adversely on the student's fitness to practice law. □a) Any student aware of conduct violating any provision of these regulations is obligated to report such conduct to the Dean. □ □b) A student accused of a violation of these regulations has a right to notice and a hearing before a disciplinary committee, where he or she can present evidence and argument, can confront his or her accusers, and can be questioned. c. Penalties for a violation of these regulations can range from censure to expulsion from school."*

Question #1

On November 27, 2012, Connor, Adam, and Harry saunter into the Law Offices of Robert D. Armano. Attorney Armano calls upon you, his ace associate, to conduct the intake interview. During the interview, you learn that Adam and Harry have been involved in a vicious automobile accident. Their dear friend, Connor, who is not an attorney, has recommended that you hire him to "translate," since his friends have a heavy Irish brogue that's virtually impossible for "Americans" to understand. This perplexes you since they seem to speak perfectly understandable English.

For the time being, you place Connor on hold and delve into the facts. Your query unearths the following: On April 23, 2012 at 4:30 p.m., Adam's 2011 Mercedes C320 (the "Benz"), was traveling in an easterly direction along Common Street in Lawrence, MA. At the same time, a classic 1957 Cadillac, operated by Christopher, (but owned by his girlfriend, Adriana,) was traveling in a northerly direction along Jackson Street. As was his usual custom, he had just finished cleaning their apartment, and Adriana thought he deserved to cruise the streets of Lawrence in a "cool ride." Suddenly though, and without any advanced warning, as the

Benz entered the intersection of Common and Jackson Street on a green light, Christopher disregarded a red light, thereby causing the ensuing collision. Apparently, he was preoccupied with his passenger, Pauly, and didn't notice that the light had changed. It must have been those 5 shots of Anisette, (an Italian liqueur) he had before leaving the house. Who knows!? The next thing he knew, badda bing, badda boom, the Caddy was totaled! How would he explain this to Adriana, and who was going to clean the friggin' apartment now!?

Through your investigation into these facts, you learn that *Safety Insurance Company* insured Adam's Benz, and that the *Commerce Insurance Company* insured the Cadillac. (**The Coverage Selection Page for the Mercedes C320 is attached hereto.**) The Part 1 coverage limits, (i.e. Bodily Injury to Others) covering the Cadillac are **compulsory only**, (i.e. 20/40), and the Part 3 coverage (i.e., Uninsured Motorist Coverage) is 100/300. There are NO optional coverages within the Cadillac policy! You also learn that while Adam works for Raytheon, Co., Harry is home on leave from the military. Accordingly, Adam carries a privately funded health insurance plan through HMO Blue, while Harry's health insurance is covered through a plan sponsored by the U.S. government, called Tri-Care. Further, you learn that Harry drives only tanks, and resides in an Army tent in southern California. Moreover, Harry tells you that he knows Christopher's passenger, Pauly, and relates that "*that guy is unemployed, lives alone at the local YMCA, and does nothing all day but smoke cigars, and bum rides to the "Bing," his favorite venue for adult entertainment!*" Finally Adam and Harry relate to you that their treating chiropractor, Dr. Jay, is the best "back cracker" in town, and they aren't going anywhere else. Dr. Jay is NOT an HMO Blue preferred provider. Adam also laments that his injuries are going to prevent him from clearing his driveway with his snowplow, and wants to know what you're going to do about it.

Attorney Armano wants you to explain to the individuals present what their various rights and/or liabilities may be. He tells you to be certain to explain to each claimant what provisions of the applicable automobile insurance policy or policies apply to their individual claims. Since you're an expert on Massachusetts automobile insurance law, attorney Armano asks you to satisfy his intellectual curiosity by preparing a memorandum on the respective rights and liabilities of Christopher, and Pauly. **Assume that all parties have medical bills that exceed \$2,000.** Note: Since you don't know what the extent of the parties damages are at this point, be certain to explain to each claimant (Pauly included) what the possibilities are if their damages exceed the policy limits.

### **Question #2**

On January 2, 2012, after a wild night of popcorn, Pepsi and Dick Clark's Rockin' New Year's Eve special, Gepetto Michelangelo Balladucci (a/k/a "Murphy"), showed up for work at the Muppet Puppet Factory, Inc. On his way to work, he couldn't stop thinking about that lousy bench that they assigned to him. You know, the one with the broken leg. He'd complained to the supervisor and sole stockholder, Pinocchio, (who had a nasty reputation as a lying bastard), but his lamentations went unheeded.

Anyhow, on the above date, Murphy arrived at work and heard Pinocchio whistling. As he approached Murphy, Pinocchio threw his arm around Murphy's shoulder and announced that he had turned over a new leaf, and was starting his "new year's revolution!" He promised Murphy that his old bench had been repaired, and was as good as new! Murphy was skeptical, but thought his old boss's wooden heart had really softened, so he gave him the benefit of the doubt and sat at the bench with a renewed sense of mankind. As soon as his bottom hit the bench, however, Murphy fell four feet to the ground, and re-injured his back! As Murphy writhed in pain on the hard ground, his co-employee, Sal, glared in horror and cried inconsolable tears. You see, Sal was a sensitive old softy and had finally seen enough of Pinocchio's antics. Witnesses say Sal never returned to work after that, had has been in psychotherapy ever since. But I digress.

As Pinocchio howled with pleasure, a humiliated Murphy managed to pick himself off the ground, and get himself to the hospital. His treating physician has advised him that he had indeed re-aggravated his old back injury, and would be out of work until further notice, When Murphy notified Pinocchio that he would not be returning to work, he was informed that he (Murphy) would not be getting paid, in any event, since the Muppet Puppet Factory didn't have Workers' Compensation Coverage.

Murphy and Sal have retained your services to handle their claims. They have both presented you with doctor's notes. While Murphy's physician has opined that Murphy is totally disabled for the time being, Sal's shrink isn't quite as generous, and has opined that Sal's only partially disabled. Both men have an average weekly wage of \$500.00 per week, and want you to explain their substantive legal rights. They are particularly interested in how these claims work procedurally, and want to know how you'll be compensated since they have no money to pay you. Both gentleman are understandably fighting mad, and expect to be compensated for their pain and suffering as well. They really want you to help them put the wood to Ol' Pinocchio and the Muppet Puppet Factory. Finally, you have since learned that while Sal will likely recover with a year or so, Murphy will be left with a permanent loss of function. Please discuss the rights and liabilities of *all* parties to this unfortunate event.

HAVE A GREAT HOLIDAY SEASON!



Safety Insurance

This Policy Is Issued By:

Safety Insurance Company

ITEM 1. This Policy Is Issued To:

ADAM

A

COVERAGE SELECTIONS PAGE

This page and any attached endorsements form a part of your policy.

1. Vehicle Policy

Massachusetts Personal Automobile Policy Number Agent

DRV 07

ITEM 2. This Policy Is Effective From:

OCTOBER 24, 2012 To OCTOBER 24, 2013

(12:01 A.M. Eastern Standard Time)

ITEM 3. Description of Your Auto:

D

Auto 001 2011 MERCEDES C320 SEDAN Auto

ITEM 4. This policy provides only the coverages for which a premium charge is shown.

Table with columns: COVERAGES, Parts 1 - 12, AUTO 001, AUTO. Rows include Bodily Injury To Others, Personal Injury Protection, Bodily Injury Caused By An Uninsured Auto, Damage to Someone Else's Property, Optional Bodily Injury To Others, Medical Payments, Collision, Limited Collision, Comprehensive, Substitute Transportation, Towing and Labor, Bodily Injury Caused By An Underinsured Auto, and SAFE DRIVER INSURANCE PLAN.

\* INCLUDES WAIVER OF DEDUCTIBLE

TOTAL PREMIUM \$ 1,320.00

Discount % Age 65 and Older Air bag/Automatic seatbelts Annual Mileage Anti-Theft Multi-Car
AUTO001 - NO 25% NO NO 5%

Identification Numbers of Endorsements Forming a Part of this Policy
M0099S MPY0016

ITEM 5. Place of Principal Garaging: AUTO001 005
ITEM 6. Secured Lender/Lessor-Additional Insured, if Rented Auto

Driver Information:

Table with columns: Op. No., Operator Name, Date of Birth, Licenses Number, Lic. State/Country, Date First Licensed, Driver Training, Deferred Operator, Operator Status. Rows 1 and 2.

REFER TO OTHER SIDE FOR ADDITIONAL INFORMATION