

**SETTLEMENT OFFER
ER 408**

January 28, 2018

Adjuster
Geico Insurance

RE: Our Client: Jane Doe
Your Insured: John James
Date of Loss: August 21, 2016
Claim Number:

Dear _____:

As you know, I represent Jane Doe with regard to injuries she sustained in the accident of August 21, 2016, caused by your insured, John James. Jane's condition has now stabilized to the point that I am now authorized to make a settlement demand to you with regard to this claim. Given the clear liability and intensity of her injuries, demand is hereby made for \$_____.

This letter and the enclosed documents are submitted for settlement purposes only. The Washington Rules of Evidence prohibit use of this letter and the enclosures as evidence in any legal proceeding without our express consent. If settlement fails for any reason, this letter and its enclosures are to be returned to me without retention of copies.

GENERAL CLIENT AND CASE INFORMATION

Date of Birth: 07/09/1985
Gender: Female
Medical Specials: \$14,989.60
Date of First Treatment: 08/21/2016

ENCLOSURES

We have enclosed the following documents in support of this demand:

1. Medical Billing;
2. Medical Records from EvergreenHealth Medical Center;
3. Medical Records from Professional Chiropractic Services.

FACTS OF ACCIDENT

On the evening of August 21, 2016, Jane Doe was stopped at a red light at the intersection of 98th Avenue NE and NE 116th Street in Kirkland, Washington, when she was rear-ended by your insured, John James.

INJURIES AND TREATMENT

INJURIES	ICD-10 CODE	PROVIDER
Acute right-sided low back pain	M54.5	Abigail Gross, MD
Neck pain on right side	M54.2	Abigail Gross, MD
Acute bilateral low back pain	M54.5	Shakeitha Dillard, PA-C
Neck strain	S16.1XXD	Shakeitha Dillard, PA-C
Spine pain, multilevel	M54.9	Jeffery Warner, DO

SUMMARY OF MEDICAL TREATMENT APPOINTMENTS (SEE ATTACHED EXHIBITS):

<u>Provider</u>	<u>No. of Treatments</u>	<u>Treatment Dates</u>
EvergreenHealth Medical Center	1	08/21/16
Professional Chiropractic Services	64	08/23/16 – 09/20/17

TREATMENT

08/21/16: *EvergreenHealth Medical Center* – Jane presented to the emergency room on the day of the accident with reports of a panic attack, chest pain, shortness of breath, bilateral arm tingling, neck pain, and right trapezius pain. Examination revealed a left neck abrasion from the seat belt and tenderness to her cervical spine. CT scans and x-rays were obtained and Jane was instructed to follow-up with her primary care physician.

08/23/16: *Professional Chiropractic Services* – Follow-up care began on August 23, 2016, with notation of constant headaches, chest pain, shoulder pain, neck pain and stiffness, mid-back pain, sleeping problems, low back pain, shortness of breath, upper extremity numbness, cold hands, tension, nervousness, and severe reluctance to drive. Objective findings included tenderness, pain, and loss of cervical, thoracic, and lumbar motion and positive orthopedic and neurological testing results. Jane was instructed to remain off work through August 29, 2016, and return for treatment the next day.

08/24/16: *Professional Chiropractic Services* – Pain unchanged and rated 6/7-10. Spinal adjustments and referral to massage therapy. Return three times per week. Home exercise instructions.

08/25/16 – 09/21/16: *Professional Chiropractic Services* – Chiropractic adjustments and pressure point therapy. Work disability extended to September 6, 2016. Referral to mental health counselor for anxiety. Foot pain noted due to prolonged standing.

09/23/16: *Professional Chiropractic Services* – Follow-up evaluation. Missed two weeks of work due to injuries. Work exacerbating symptoms with computer and headset use. Significant increase

in symptoms on returning to work on September 6, 2016. Anxiety still present. Recommend continued chiropractic and massage care twice per week for six weeks.

09/27/16 – 12/12/16: Professional Chiropractic Services – Chiropractic adjustments, therapeutic exercises, and pressure point therapy. Work continues to increase pain. Frequent aggravations and exacerbations with activities of daily living and long work days. Additional concurrent massage therapy recommended.

09/23/16: Professional Chiropractic Services – Follow-up evaluation. Slow progress made. Returned to work from vacation and symptoms escalated. Prior to accident, could work long shifts without any pain. Regressed in early December when not able to make appointments due to work schedule. Not yet fixed and stable. Recommend two visits per week for next four weeks then once per week.

12/29/16 – 02/08/17: Professional Chiropractic Services – Chiropractic adjustments, therapeutic exercises, and pressure point therapy. Not able to return to the gym or yoga. Headaches, neck pain, right shoulder pain, and back pain remain persistent.

02/16/17: Professional Chiropractic Services – Follow-up evaluation. Overall progress noted. Attempts to return to gym create symptomatic flare-ups. Headaches less frequent. Continued episodes of right sided neck pain and tingling in right arm especially with data entry at work. Feels 65% better. Recommend continued chiropractic care once a week for four weeks.

02/22/17 – 08/28/17: Professional Chiropractic Services – Chiropractic adjustments, therapeutic exercises, and pressure point therapy. Right neck, shoulder, and back pain and headaches. Improvement noted. Referral to additional massage therapy. Continue aerobic and strength conditioning program combined with taper of chiropractic. Severe spasms after stressful days at work and helping family move.

09/20/17: Professional Chiropractic Services – Final evaluation. Has returned to gym and handling flare-ups well. Has returned to pre-accident levels of function with aggravations in neck pain with driving and some activities of daily living. Pain present 25% of the time. Reached maximum medical improvement with no additional improvement expected. Flare-ups of accident related symptoms likely in the future.

SPECIAL DAMAGES

CURRENT MEDICAL SPECIALS

Jane Doe has incurred medical expenses for treatment of the injuries sustained in her accident with your insured. The total incurred medical expenses are as follows:

Provider	Dates of Service	No. of Visits	Total Charges
EvergreenHealth Medical Center	08/21/16	1	\$8,393.00
Evergreen Emergency Services	08/21/16	1	\$760.00
Radia	08/21/16	1	\$945.60
Professional Chiropractic Services	08/23/16 – 09/20/17	64	\$4,891.00
TOTAL:			\$14,989.60

MILEAGE EXPENSES

Jane Doe has incurred mileage expenses for treatment of the injuries sustained in her accident with your insured. The total incurred mileage expenses for medical treatment transportation is as follows:

EvergreenHealth Medical Center	1 visit x 4.2 RT = 4.2 miles x .17	\$.71
Professional Chiropractic Services	64 visits x 5.8 RT = 371.2 miles x .17	\$63.10
TOTAL:		\$63.81

SPECIAL DAMAGES SUMMARY

Medical Specials	\$14,989.60
Mileage Expenses	\$63.81
TOTAL:	\$12,208.03

DUTIES UNDER DURESS & LOSS OF ENJOYMENT OF LIFE

Jane continues to have good and bad days due to unexpected flare ups of pain. Such unexpected halting pain robs her of the enjoyment of life she had prior to August 21, 2016. Caring for her daily activities, many times can only be accomplished under duress. The once normal and commonplace activities before the August 21, 2016, accident are now attempted with concerns of exacerbating her injuries. The determination of Jane's functions in caring for her daily activities is the intensity and frequency of the painful flare ups. Having to go through life with constant awareness that anything she may do, would inflame this injury, deprives her of the pleasure of life she once enjoyed.

PRESENT CONDITION AND PROGNOSIS

To date, Jane Doe _____

GENERAL DAMAGES

Jane Doe is entitled to recover damages for all personal injuries caused by this accident, including damages for emotional distress and economic damages. The guiding principle of tort law is to make the injured party as whole as possible through pecuniary compensation. Aker Verdal, A/S v. Lampson, 65 Wn. App. 177 (1992). She is entitled to recover the reasonable value of necessary medical care, treatment and service rendered before trial.

Jane may also recover the reasonable value of time, earnings, or salaries lost and the present value of reasonable future losses. WPI 30.08.01 and 30.08.02. Loss of earning capacity is a permanent diminution of ability to earn a living owing to disability as opposed to the temporary inability to continue in a prior occupation. Kubista v. Romaine, 14 Wn. App. 58, 62, 63, 538 P.2d 812 (1975);

Adjuster
Insurance Company
January 28, 2018
Page 5

affirmed, 87 Wn.2d 62, 549 P.2d 491 (1986). WPI 30.07. Travel expenses reasonably necessary to secure proper treatment are compensable. Shipman v. Foisy, 49 Wn.2d 406, 302 P.2d 480 (1956).

Recovery for pain and suffering compensates for the physical and mental discomfort caused by the injury. Kirk v. WSU. The amount is determined by the discretion of the jury. Collins v. Doe, 112 Wn. 71, 191 P. 819 (1920). Lay witness testimony of purely subjective symptoms still existing at trial allows for a jury instruction and consideration of future damages for all categories of general damages. Bitzan v. Parisi, 88 Wn.2d 116, 558 P.2d 775 (1977). Negligently inflicted mental distress is compensable. Hunsley v. Giard, 87 Wn.2d 424, 553 P.2d 1096 (1976). So is distress about the fear of the future consequences of an injury. Elliott v. Aerosmith, 149 Wn. 631, 272 P. 32 (1928). Loss of ability to enjoy life is a proper element of damages, and if there are special artistic or athletic skills, separate or added distress compensation is appropriate. Kirk v. WSU, at 460-461. The injured person's anxiety and worry are compensable. Freeman v. Intalco Aluminum Corp., 15 Wn. App. 677, 552 P.2d 214 (1976).

CONCLUSION

In light of the clear liability in this case and the injuries clearly proximately caused, as well as the damages documented herein, we make a reasonable and fair demand in the total amount of \$_____ in full and final settlement of this claim. If your insured's policy limits are lower than our stated demand, please consider this our request for policy limits. Hopefully, we can settle this claim quickly and in a cordial negotiation. We make this request pursuant to Washington Administrative Code, Section 284-30-360(3), which states in relevant part:

- (3) An appropriate reply shall be made within ten working days...on all other pertinent communications from a claimant which reasonably suggest that a response is expected.

Thank you and I look forward to hearing from you.

Yours truly,

John Doe
Attorney at Law

JD/tlm
Encl.
cc: client w/o encl.