

Via First Class Mail
_____ **Insurance Company**

Re: Our Client: XXXX
Insured: _____
Claim Number:
Date of Incident: July 15, YYYY

SETTLEMENT DEMAND

Dear _____:

As you know, I represent XXXX in regard to injuries and other damages sustained by him as a result of the above referenced July 15, YYYY, assault injury caused by the negligence of your insured, _____. The purpose of this letter is to serve as our demand under the liability portion of your insured's policy with _____ Insurance Company.

I have attached for your review the medical and billing records that XXXX incurred as a result of your insured, as well as a detailed medical summary of their medical injuries and required medical treatment. You should now have all necessary documentation for you to fully evaluate this matter and the damages stemming from this physical assault.

CLEAR LIABILITY

Liability in this matter is clear and absolute. Mr. XXXX lives next to a school heard people making a "racket went over there and someone belted him in the face". He was punched in the face; after being punched he fell forward and landed on his hands and knees.

SUMMARY OF PHYSICAL INJURIES

The force of the sudden impact and the severity of physical assault caused Mr. XXXX, who was 71-year-old to sustain the following injuries:

- | | |
|-----------|---|
| • M54.12 | <i>Cervical radiculopathy</i> |
| • S02.40A | <i>Closed fracture of left side of maxilla</i> |
| • M47.812 | <i>Cervical spondylosis</i> |
| • M50.20 | <i>Cervical disc displacement</i> |
| • M51.24 | <i>Thoracolumbar intervertebral disc displacement</i> |

- **M51.26** ***Intervertebral disc displacement, lumbar***
- **M51.27** ***Intervertebral disc displacement, lumbosacral***

TREATMENT OF INJURIES

Soon after the incident, on July 15, YYYY, Mr. XXXX was transported via ambulance to ABCD - HealthAlliance - ABCD Hospital (***Exhibit A***) for initial evaluation and treatment of injuries sustained in the aforementioned physical assault. He was evaluated by DDDD, M.D., in the emergency room. He complained of headache, nausea and constant sharp pain in his face. He had obvious injury to the left side of his face. He rated his pain as 5 on a pain scale of 10. He reportedly had a history of vertigo which worsened following the aforementioned incident. A review of his systems was positive for dizziness and facial swelling. The CTs of his head and maxillofacial bones were ordered, performed and reviewed. The CTs of his head and maxillofacial bones revealed acute comminuted and displaced fractures involving left maxillary sinus walls with surrounding posttraumatic soft tissue swelling and partial opacification of left maxillary sinus with fluid and blood products; displaced fracture involving left orbital floor with post septal stranding and emphysema; and prominent left periorbital soft tissue swelling and subcutaneous air. Following examination, Mr. XXXX was diagnosed as having sustained closed fracture of left side of maxilla secondary to the aforementioned physical assault. During the course of emergency care, Tylenol and Zofran were given orally to alleviate his symptoms. He was discharged on July 16, YYYY with a prescription for Zofran. He was advised to take Tylenol for pain. Mr. XXXX was advised to follow-up with his primary care physician and with plastic surgeon, Dr. Noury for further management.

On October 1, YYYY, Mr. XXXX presented to BBBB, M.D., at XYZ and Imaging - PPPP St for MRI of lumbar spine. The study revealed dextroscoliosis apex to the right at the L2 level; and multilevel degenerative changes of lumbar spine. There was a small disc bulge resulting in narrowing of the spinal canal at T12-L1; a posterior disc bulge with narrowing of the spinal canal at L2-L3, a disc bulge in association with severe bilateral neuroforaminal stenosis right worse than left at L4-L5, and a small posterior disc bulge with bilateral facet arthropathy resulting in mild to moderate bilateral neuroforaminal stenosis at L5-S1.

On January 24, YYYY, Mr. XXXX presented to RRRR, D.O., at KKK Hospital Hospitalist Service (***Exhibit B***) for cervical facet injection. His pre and post operative diagnoses were cervical spondylosis. After obtaining informed consent, intra articular facet joint injection was administered at bilateral C2-C4 using fluoroscopic guidance, under local anesthesia, in sterile conditions.

On April 5, YYYY, Mr. XXXX presented to BBBB, D.O., at KKK Hospital Hospitalist Service for cervical facet injection. His pre and post-operative diagnoses were cervical spondylosis. After obtaining informed consent, intra articular facet joint injection was

administered at bilateral C2-C4 using fluoroscopic guidance, under local anesthesia, in sterile conditions.

On June 28, YYYY, Mr. XXXX presented to DDDD, M.D., at OPCD - JJJJ (**Exhibit C**) for MRI of his brain. The study revealed chronic micro-angiopathic changes.

On January 8, YYYY, Mr. XXXX presented to EEEE, M.D., at HOD - MRI (**Exhibit-D**) for MRI of his brain. The study revealed several supra and infra-tentorial punctate foci of restricted diffusion likely to represent embolic hyper-acute infarcts.

On January 16, YYYY, Mr. XXXX presented to FFFF, M.D., at HOD MRI - for MRI of his cervical spine. The study revealed severe bilateral neuro-foraminal narrowing at C3-C4, slightly progressed as compared to prior study; and moderate right-sided neuro-foraminal narrowing at C5-C6. There was posterior disc herniation and thickening of the ligamentum flavum at C3-C4. There was moderate flattening of the spinal cord, severe bilateral neuroforaminal narrowing that had slightly progressed as compared to the prior study of October 24, YYYY, July 24, YYYY and CT scan obtained on July 16, YYYY.

MEDICAL EXPENSES

The medical expenses (**Exhibit-E**) for treatment of injuries that Mr. XXXX suffered because of the incident amounted to **\$44,718.89**. Copies of the medical bills are attached and itemized below:

ABCD Memorial Health	:	\$26,341.62
KKK Hospital Hospitalist Service	:	\$10,427.27
OPCD - Health Alliance	:	<u>\$7,950.00</u>
Total Medical Expenses	:	\$44,718.89

FUTURE MEDICAL EXPENSES

Mr. XXXX continues to suffer from pain in his head, neck and back as a result of the incident. He may require orthopedic consultations. He may require neurological consultations to evaluate his headaches. He may require additional epidural steroid injections. Pain management consultations and medications may be needed to control her pain. The estimate of his medical expenses in the future (**per year**) is as follows:

Orthopedic consultations	:	\$500.00-\$1,000.00
Neurological consultations	:	\$1,000.00-\$1,500.00
Epidural steroid injections	:	<u>\$15,000.00-\$20,000.00</u>

Total Annual Future Medical Expenses : \$16,500.00-\$22,500.00

LIFESTYLE IMPACT

Mr. XXXX was hale and hearty before the incident. Unfortunately, he continues to suffer from immense pain in his head, neck and back despite taking pain medications. He is emotionally disturbed as a result of the incident. As of today, he is unable to complete any task without pain. He believes that someone has damaged his body and there is no cure. He claims that he was not improving. He is in a state of distress and is searching for a way to return to functional status and reduce the level of pain.

Our client would like nothing more than to return to the happy and healthy individual he once was, however, he fears this may never happen and he continues to live with the negative lasting effects of this incident.

TOTAL DAMAGES

Medical expenses	:	\$44,718.89
Future medical expenses	:	\$16,500.00-\$22,500.00
Future loss of income	:	Unknown at this time
Lifestyle impact/loss of activities	:	\$

Stowers Demand

Obviously, XXXX has been through a lot at no fault of her own. In exchange for the total available liability limits amount of the applicable _____ insurance policy providing coverage for this incident, or \$_____, whichever amount is less, XXXX agrees to fully release any and all claims against _____.

Our offers of settlement include a full release from liability to the extent necessary, but not limited to, the satisfaction of and release of ____ from any and all outstanding bills and/or liens resulting from this incident. Any such bills or liens, if any, may be paid directly from the settlement proceeds during distribution of the settlement funds, and the remaining balance can be made payable to each of my clients respectfully, and my law firm.

Texas Insurance Code Chapter 541

Beyond the traditional Stowers issues expressed above, XXXX should be made aware of the duties

owed to them under the Texas Insurance Code. As the Texas Supreme Court has stated, liability may be imposed under Chapter 541 of the Texas Insurance Code (formerly Article 21.21) when the insured shows that (1) the policy covers the claim, (2) the insured's liability is reasonably clear, (3) the claimant has made a proper settlement demand within policy limits, and (4) the demand's terms are such that an ordinarily prudent insurer would accept it.

Liability is at least reasonably clear, if not certainly clear. Coverage exists and this settlement demand is a proper demand within the policy limits. Finally, given the fact that this claim involves a substantial loss, the demand expressed in this letter would be such that an ordinarily prudent insurer would accept it.

Accordingly, [REDACTED] should be made aware that if this demand is not accepted and paid in full timely, [REDACTED] could be entitled to recover court costs, attorney fees, actual damages, and potential treble damages pursuant to Section 17.46 of the Texas Deceptive Trade Practices Act, which is a "tie-in statute" to Chapter 541 of the Texas Insurance Code. [REDACTED] could also be entitled to recover damages pursuant to Chapter 542 of the Texas Insurance Code, which consists of interest in the amount of eighteen (18) percent per annum, prejudgment interest, and reasonable attorney fees.

VI. Time Demand Limitation

This Demand will automatically expire at 5:00 p.m. (C.D.S.T.) on MM/DD/YYYY, at which time the demand will automatically expire.

Thank you for your attention and I look forward to hearing from you on this matter.

Very truly yours,

Enclosure

EXHIBITS

Exhibit A	:	ABCD - HealthAlliance
Exhibit B	:	KKK Hospital Hospital
Exhibit C	:	OPCD- UMass Memorial
Exhibit D	:	HOD- Health Alliance Imaging
Exhibit E	:	Medical Expenses

MEDSUM LEGAL