

THE DEMAND PACKAGE FOR GENERAL PRACTITIONERS: FIVE ESSENTIAL CONSIDERATIONS TO RESOLVING A PERSONAL INJURY CAR CRASH CASE WITHOUT FILING A LAWSUIT.

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** To download a copy of this paper, go to <http://www.coplancrane.com/firm-news/>. All the attachments to the paper are bookmarked within the pdf.

For seasoned plaintiff's personal injury attorneys, car crash cases are the lifeblood of the practice. More than any other way, our clients are injured in car crashes. Sometimes these cases can be resolved without litigation for fair value. We have determined, after years of experience and experimenting, that most car crash cases follow a very similar pattern. This allows many tasks necessary to resolution to be replicated, systematized, and, often, delegated to non-lawyer staff. A well-presented Demand Package (1) provides the insurance company with all the information necessary to consider the claim and make a fair offer and (2) can be compiled and drafted by either an attorney or well-trained and attorney-managed support staff.

For the attorney less familiar with personal injury practice, the prospect of properly resolving an injury victim's claim can be filled with anxiety, but car crash cases without complex issues are within most general practitioner's ability to handle.

The purpose of this paper is to provide the general practitioner the framework for initiating the car crash claim and compiling the Demand Package in order to resolve the claim without litigation.

Consideration #1: Attorney Retention

Almost exclusively, personal injury cases are handled on a contingency fee basis, and they often include a referral fee to an attorney that is not the day-to-day handling attorney. Properly securing and documenting the attorney-client/referral attorney relationship is both ethical and necessary to "getting the case off on the right foot."

Illinois Rule of Professional Conduct 1.5 addresses attorney fees. As IRPC 1.5 applies to injury cases, retainer agreements shall:

- Be in writing,
- State the method by which the fee is to be calculated,
- State whether the fee is calculated before or after deduction of costs
- Upon conclusion, shall provide the client with an itemization of all costs, fees and remittance.

If there is a referring attorney or other similar division of fees, IRPC 1.5 (f) and (i) sets forth the requirements, but the most important thing is that the client consents in writing.

Our Firm's standard Retainer and Referral Agreements are attached.

Consideration #2: Insurance Coverage

If there is no insurance, you will likely be unable to recover any money for your client or a fee for your firm. To achieve a fair recovery for your client, you must identify the applicable insurance coverage, within reason, depending upon the severity of the client's injury.

Knowing where to find insurance coverage is crucial. Always start with your client's own insurance company. They have a fiduciary duty to your client, so they will tend to be more cooperative in providing information. They begin investigating the crash when the claim comes in. Typically, clients contact their insurance carrier before an injury lawyer, so the carrier will already be involved to handle the property damages issues. They also should be helpful in identifying the other insurance companies involved.

To find insurance coverage, we routinely look to the following sources:

- Adverse Driver (personal, principal/employer, other in household)
- Adverse Vehicle Owner
- Client's own insurance (uninsured/underinsured coverage).

The "Declarations Page" for an insurance policy likely provides all the coverage information you will need in order to analyze your client's prospects for recovery. A sample Declarations Pages is attached.

The amounts and types of coverage will dictate your settlement strategy. If you have a \$50,000 injury and a \$1,000,000 Liability policy, there is no need to navigate the coverage strategically. But if you have a \$1,000,000 injury, a \$20,000 Liability policy, and a \$500,000 UIM, you need to plan the proper course.

We commonly see the following separate types of insurance within an auto policy:

- Liability – provides defense and indemnity coverage to the at-fault driver.
- Medical Payments – provides coverage for medical bills, regardless of fault to people in the covered vehicle or otherwise covered under the policy.

- Property Damage – provides coverage for property damage, regardless of fault.
- UM/UIM – provides coverage where the adverse driver has no or inadequate coverage.
- Umbrella – provides coverage above for liability (sometimes UIM) above the primary liability amount. Umbrella coverage is sometime connected to the homeowners' insurance.

Once you have identified the carriers, you must provide notice of your representation. This is commonly served in the form of an Attorney Lien Letter (attached), which also requests confirmation of the insurance policy limits, pursuant to 215 ILCS 5/143.24b. Be sure to comply strictly with the Attorney Lien Act. 770 ILCS 5/1. This allows your *quantum meruit* to be protected. With UIM claims, nearly all insurance policies require that you serve the carrier for a demand for arbitration within two years of the crash. We send this demand, regardless of whether UIM be triggered. In the off-chance that the liability carrier goes bankrupt, you will continue to maintain your right of recover against the UIM carrier.

Consideration #3: Evidentiary Support for Your Demand Package

Insurance Adjusters have rigid standards they must follow. It is to your benefit to make the adjuster's job easier and provide them with the information they require to meet the rigid standards. At a minimum, your demand package must include the following:

- Illinois Traffic Crash Report (Example attached).
- Photos of the scene, vehicles, and injuries
- Treatment records related to the crash (Form attached)
- Treatment bills related to the crash (Form attached)
- Wage Loss Verification (Form attached)

You must also consider the strategy of whether to include additional materials in the Demand Package that do not add anything to your client's claim but which the adjuster might subsequently request after their initial review of the Demand Package. The adjuster will want to both confirm what you are telling them and to discredit your claim through additional investigation. Adjusters will routinely request the following after their initial review:

- Past and unrelated medical records
- Employment file
- Tax returns

Best practice is to obtain these documents along with the necessary pieces of your Demand Package. Anticipating they will be requested expedites case resolution, and allows you to consider whether to simply provide them initially. Of course, if the records

are damaging, you need to analyze what effect they might have on the case once disclosed and negotiate accordingly.

Consideration #4: Drafting the Demand Letter

It remains a mystery whether drafting a beautiful, well-argued demand letter falls on deaf ears. I have my doubts. However, this exercise allows you to focus your own thoughts about the case, to highlight the most important pieces of your evidence, and provide your assessment on verdict and settlement value.

It is important to consider when to send the Demand Package. This will always be case dependant, however, we most often send it after the client's recovery plateaus and they have reached maximum medical improvement (MMI). In other words, they have gotten as good as they are going to get. This milestone is usually met when the doctor that is treating the injuries related to the crash discharges the client to return on an "as needed" basis.

In my opinion, a well-crafted demand letter will do each of the following things:

- Discuss of each element of the case (duty, causation, breach, damages). Where little dispute exists, you can be brief.
- Analyze of the related medical history.
- Discuss of the appropriate damage elements, being certain to develop evidence (by doctor narrative preferably) of future care needs and to include all economic losses.
- Provide a range of potential verdicts and settlements.
- Give your Demand number.
- Provide a deadline for an offer. The flexibility of that deadline will depend on whether you are trying to establish a bad faith cause of action. See *Haddick v. Valor Insurance*, 198 Ill.2d 409 (2002).

Consideration #5: Liens Upon Your Client's Claim

When a personal injury case settles, it seems everyone has their hand out. In fact, insurance companies, health plans, medical providers and the government have preemptively placed their hand in your clients pocket through legislation and contract language.

Your clients "take home" will be greatly affected by the claims others have against the proceeds of the lawsuit. Managing your client's expectations about what their ultimate

recovery will be and negotiating the case, knowing what each offer means for your client's net recovery, is absolutely necessary to healthy attorney-client relationship.

We frequently have the "What's my case worth?" conversation in the first client meeting. The answer typically goes something like this:

"We don't know yet. Case value will be determined by how you ultimately heal and the amount of insurance coverage. What we can tell you is that whenever we do begin talking about settlement numbers, you need to consider the overall number in thirds. A third for you. A third for our fees. A third to pay back all the medical bills and the people that paid them, along with the litigation fees. While it doesn't always work out that way, it typically falls in a close range to a third-third-third."

This sets the tone early for the disappointment at the end of the case, where so much of the settlement is allocated to "paybacks." The most common claims against the proceeds of a personal injury settlement are:

- Medical Provider Lien
- Medicare/Medicaid Lien
- Major Medical Subrogation
- Auto Medical Payments Subrogation
- Workers Compensation Lien
- Disability Policy Subrogation
- Other outstanding bills.

While beyond the scope of this paper, effectively navigating liens has become the most frustrating part of our practice. By law, you cannot ignore valid liens. Where subrogation interests exist, you have to deal with them. And where outstanding bills exists, it is your duty to explain the consequences of not resolving the outstanding bills at the time of settlement or to negotiate the bills for them.

COPLAN & CRANE, LTD. RETAINER AGREEMENT

I, [REDACTED] hereby employ and retain COPLAN & CRANE, LTD., to prosecute my claim, suit or cause of action against [REDACTED] and others who may be responsible for the injuries and damages sustained by [REDACTED] on September [REDACTED], at [REDACTED], in Roselle, IL.

As compensation for services, I agree to pay and I hereby assign to COPLAN & CRANE, LTD., a fee, computed on the gross recovery prior to deduction of costs, in an amount equal to thirty-three and one-third percent (33 1/3%) of any amount that may be received by me or on my behalf by settlement.

I further direct and authorize COPLAN & CRANE, LTD., to incur reasonable and necessary expenses and costs in the preparation and prosecution of this suit, claim or cause of action, said costs to include investigation, experts, including nurses and/or physicians who are employees of the firm or employed as independent contractors, depositions, court filing fees, exhibit preparation, photocopies, transportation and mileage, telephone, and other similar and ordinary expenses. I hereby agree to reimburse COPLAN & CRANE, LTD., in the actual amount of the costs and expenses incurred after the professional fee is deducted from the gross amount of money recovered.

I understand that current law and regulations regarding Medicare, Medicaid or private health insurance plans (healthcare providers) may require all parties involved in this matter (client, law firm, defendant, and any insurance companies) to compromise, settle, or execute a release of healthcare providers' separate claim(s) for reimbursement/lien(s) for past and future payments prior to distributing any verdict or settlement proceeds. I agree that the law firm may take all steps in this matter deemed advisable for the handling of my claim, including hiring separate experts/caseworkers who assist with resolving any healthcare providers' reimbursement claims or liens for past and/or future injury-related medical care. The expense of any such service shall be treated as a case expense and deducted from my net recovery and shall not be paid out of the law firm's contingent fee in this matter.

It is specifically agreed and understood that COPLAN & CRANE, LTD., accept this retainer contract subject to their investigation of the circumstances of this occurrence.

I hereby acknowledge receipt of a copy of this Retainer Contract.

Signed this ____ day of _____, 2013.

[REDACTED]

We hereby agree to prosecute this claim, suit or cause of action on the terms stated herein.

We further acknowledge receipt of the sum of \$zero as and for a deposit for costs of investigation.

COPLAN & CRANE, LTD.

By: _____
Ben Crane

REFERRAL AGREEMENT

I, [REDACTED], acknowledge that this matter has been referred to COPLAN & CRANE, LTD., by [REDACTED], (hereinafter referred to as "referral attorney"). I am aware that both firms will be jointly responsible for the handling and prosecution of this matter and that it has further been agreed, between the firms, that COPLAN & CRANE, LTD., will be primarily handling the day-to-day activities. I approve a division of the attorney's fee to be received by COPLAN & CRANE, LTD., pursuant to my Retainer Agreement, with COPLAN & CRANE, LTD., receiving sixty-six and two-thirds percent (66 2/3%) of the attorneys' fees paid hereunder and "referral attorney" receiving thirty-three and one-third percent (33 1/3%) of the attorneys' fees paid hereunder. There shall be no additional fee charged to me under this shared fee arrangement. Rather, both firms shall remain responsible for the handling and prosecution of my claim.

Should the services of an appellate attorney be required to successfully prosecute the underlying action, referral attorney hereby agrees to be responsible for his/her proportionate share of those fees pursuant to the fee split agreement set forth above.

Signed this ____ day of _____, 2013.

[REDACTED]

COPLAN & CRANE, LTD.

By: _____
Ben Crane

REFERRAL ATTORNEY

By: _____
[REDACTED]



Constitutional Casualty Company

5618 N. MILWAUKEE AVE., CHICAGO, ILLINOIS 60646

PART B DECLARATION PAGE

Private Passenger Automobile

* Renewal Declaration *

DECLARATIONS EFFECTIVE 05/01/06

DIRECT BILL

POLICY NUMBER	FROM	POLICY PERIOD TO	AGENCY
	05/01/06	11/01/06	12:01 AM STANDARD TIME 00002642
NAMED INSURED AND ADDRESS		AGENT	
		PETER SCHWARTZ INSURANCE 207 IRIS DR STREAMWOOD IL 60107-2221 PHONE: (630) 289-6774	

VEHICLES COVERED

INSURANCE IS PROVIDED WHERE A PREMIUM IS SHOWN FOR THE COVERAGE. FOR UNINSURED MOTORIST, UNDERINSURED MOTORIST AND UNINSURED MOTORIST PROPERTY DAMAGE, THE LIABILITY LIMIT SHOWN ON THE DECLARATIONS FOR, ANY ONE VEHICLE FOR THAT COVERAGE, IS THE MOST WE WILL PAY FOR DAMAGES RESULTING FROM ANY ONE ACCIDENT, REGARDLESS OF THE NUMBER OF VEHICLES OR PREMIUMS SHOWN IN THE DECLARATIONS.

VEH YR	MAKE	MODEL	IDENTIFICATION	TYPE	SYM	ST	TER	USE	CLASS	ALARM
2 02	HOND	CIVIC EX	1HGEM22952L086006	PP	18	IL	37	L	887120	
LOSS PAYEE THAT APPLIES: 2										
3 02	HYUN	SONATA/GL	KMHWF25S72A671544	PP	16	IL	37	P	887120	

VEH NO.	COVERAGE DESCRIPTION	LIABILITY LIMIT(S)	DEDUCTIBLE	PREMIUM
2	Preferred Extra Auto			
	Bodily Injury	\$250,000/\$500,000		\$92.00
	Property Damage	\$100,000		\$43.00
	Medical Payments	\$5,000		\$13.00
	Uninsured Motorist -	\$250,000/\$500,000		\$62.00
	Undinsured Motor.-BI	\$250,000/\$500,000		INCL
	Collision		\$500	\$141.00
	Other than Collision		\$250	\$92.00
			TOTAL FOR UNIT 2	\$443.00
3	Preferred Extra Auto			
	Bodily Injury	\$250,000/\$500,000		\$92.00
	Property Damage	\$100,000		\$43.00
	Medical Payments	\$5,000		\$13.00
	Uninsured Motorist -	\$250,000/\$500,000		\$62.00
	Undinsured Motor.-BI	\$250,000/\$500,000		INCL
	Collision		\$500	\$136.00
	Other than Collision		\$250	\$90.00
			TOTAL FOR UNIT 3	\$436.00

DRIVER INFORMATION

DR	VEH	SEX	MAR	BIRTH	G/S	PRIN	DVR LIC NO.	NAME	PTS
									0
									0



Writer's e-mail: bcrane@coplancrane.com

August 13, 2013

VIA CERTIFIED MAIL

GEICO

1 Geico Center
Macon, GA 31296

RE: Our Client: Mrs. [REDACTED]
Your Insured: Mr. [REDACTED]
Date of Injury: [REDACTED]

To Whom It May Concern:

Please be advised that this office represents Mrs. [REDACTED] in her claim for injuries she sustained on July [REDACTED] when she was involved in a motor vehicle collision with your insured, Mr. [REDACTED]. We enclose our Notice of Attorney's Lien for your file.

If you have obtained statements from our client or any witnesses, please confirm this and forward a copy to this office.

Pursuant to 215 ILCS 5/143.24b, please certify your insured's policy limits for liability and medical payments for this incident and confirm the name of the adjuster assigned to this file. Please direct all contact regarding this matter to our office.

Thank you for your prompt attention to this request.

Very truly yours,

COPLAN & CRANE, LTD.

By: _____
Ben Crane

BAC/jma

Encl. (Notice of Attorney's Lien)

WAGE LOSS VERIFICATION

Date: _____

TO THE EMPLOYER:

This statement is for the benefit of your employee, [REDACTED], in their claim arising out of an injury suffered on [REDACTED], THAT IS IN NO WAY CONNECTED WITH HER EMPLOYMENT AT YOUR COMPANY.

Name of Employer: _____

Address: _____

Name of Employee: _____

Address: _____

Phone: _____

Date First Employed: _____

Time lost from work: From _____ to _____ inclusive.

Employee's Hourly Wage or Yearly Salary: \$ _____.

Bonus, Commissions or Overtime lost, if any: \$ _____

Total wages lost for above period off work: \$ _____

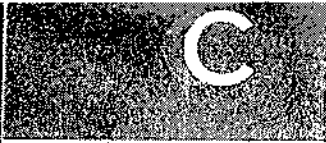
Employee's regular duties: _____

Comments: _____

Signed: _____

Official Title: _____

Please complete and return to:
COPLAN & CRANE, LTD.
1111 Westgate Street
Oak Park, Illinois 60301
Tel.: (708) 358-8080
Fax: (708) 358-8181



Writer's email: sblecha@coplancrane.com

September 17, 2013

[REDACTED]
[REDACTED]
[REDACTED]

Attention: Medical Records

RE: [REDACTED]
Date of Birth: [REDACTED]
Social Security No.: [REDACTED]
Our File No.: [REDACTED]

To Whom It May Concern:

We represent [REDACTED]. It is our understanding your facility has treated our client.

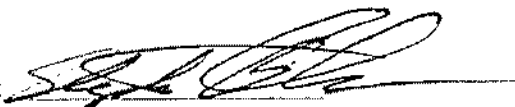
Pursuant to HIPAA/United States Public Law 104-191 (1996) and 735 ILCS 5/8-2001 of the Illinois Compiled Statutes, we write to request ANY AND ALL MEDICAL RECORDS AND ITEMIZED BILLS FROM SEPTEMBER 10, 2012 THROUGH PRESENT for this patient. A signed medical authorization is enclosed permitting you to release this information to our office. If there is a copy charge, please inform us and we will remit payment for the records we request.

Lastly, please complete the enclosed Affidavit(s) and return them along with the requested medical records and itemized bills.

Thank you for your prompt attention to this request.

Very truly yours,

COPLAN & CRANE, LTD.

By: 
Stephen Blecha

SMB/jma
Encl. (Authorization for Release of Medical Information and Affidavit)

AUTHORIZATION FOR THE RELEASE OF MEDICAL RECORD INFORMATION

Hospital or Physician: _____

Name of Patient: _____

Address: _____

DOB: _____ SS#: _____

I, the undersigned, hereby authorize any physician, nurse or other medical practitioner who attended me, or any hospital at which I have been confined, to furnish COPLAN & CRANE, LTD., 1111 Westgate Street, Oak Park, Illinois 60301, as agents and my attorneys, pursuant to the provisions of HIPAA/United States Public Law 104-191 (1996) and Chapter 735, Act 5, Sections 8-2001 and 8-2003 of the Illinois Compiled Statutes, with any and all information which may be requested regarding my past or present physical condition and treatment rendered and to allow them or any physician appointed by them to examine and copy any and all records of any kind and sort in your possession, and x-rays which you may have regarding my condition or treatment. The purpose of the records is to conduct a legal investigation.

- I understand that by my signature, I am acknowledging that a photocopy of this request is as valid as the original.
- I understand any disclosure of information carries with it the potential for an unauthorized re-disclosure and the information may not be protected by federal confidentiality rules.
- I understand the revocation will not apply to information that has already been released in response to this authorization.
- I understand that I may revoke this authorization at any time.
- I understand that if I revoke this authorization, I must do so in writing and present my written revocation to the Medical Information Service Department.
- This authorization will be valid until specifically revoked or until any and all claims are resolved, whichever is earlier.

9/17/13

Date

Patient

(If not the patient, relationship to the patient)

735 ILCS 5/8-2001 and 5/8-2003

5/8-2001. Examination of Records

8-2001. Examination of records. Every private and public hospital shall, upon the request of any patient who has been treated in such hospital and after his or her discharge therefrom, permit the patient or his or her physician or authorized attorney or the holder of a Consent pursuant to Section 2-1003 to examine the hospital records, including but not limited to the history, bedside notes, charts, pictures and plates, kept in connection with the treatment of such patient, and permit copies of such records to be made by him or her or his or her physician or authorized attorney or the holder of a Consent pursuant to Section 2-1003. A request for examination of the records shall be in writing and shall be delivered to the administrator of such hospital.

The requirements of this Section shall be satisfied within 60 days of the receipt of a request by a patient, for his or her physician, authorized attorney, or own person or the holder of a Consent pursuant to Section 2-1003.

Failure to comply with the time limit requirement of this Section shall subject the denying party to expenses and reasonable attorneys' fees incurred in connection with any court ordered enforcement of the provisions of this Section.

5/8-2003. Physician's and other healthcare practitioner's records

8-2003. Physician's and other healthcare practitioner's records. Every physician and other healthcare practitioner except as provided in Section 8-2004, shall, upon the request of any patient who has been treated by such physician or practitioner, permit such patient's physician or authorized attorney or the holder of a Consent pursuant to Section 2-1003 to examine and copy the patient's records, including but not limited to those relating to the diagnosis, treatment, prognosis, history, charts, pictures and plates, kept in connection with the treatment of such patient. Such request for examining and copying of the records shall be in writing and shall be delivered to such physician or practitioner. Such written request shall be complied with by the physician or practitioner within a reasonable time after receipt by him or her at his or her office or any other place designated by him or her. The physician or practitioner shall be reimbursed by the person requesting such records at the time of such examination or copying, for all reasonable expenses incurred by the physician or practitioner in connection with such examination or copying.

The requirements of this Section shall be satisfied within 60 days of the receipt of a request by a patient or his or her physician or authorized attorney or the holder of a Consent pursuant to Section 2-1003.

Failure to comply with the time limit requirement of this Section shall subject the denying party to expenses and reasonable attorneys' fees incurred in connection with any court ordered enforcement of the provisions of this Section.

REQUIRED STATEMENTS PURSUANT TO THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

You have the right to revoke this authorization at any time by notifying COPLAN & CRANE, LTD., in writing. There is no treatment, payment, enrollment or eligibility of benefits conditioned on signing this Authorization. Refusing to sign the Authorization prevents your attorneys from obtaining your records without order of Court. There is a risk that your patient health information may be re-disclosed by COPLAN & CRANE, LTD., and therefore, no longer protected by the Health Insurance Portability and Accountability Act privacy rule.

AFFIDAVIT

PATIENT: [REDACTED]
DOB: [REDACTED]
SSN: [REDACTED]
DATES OF SERVICE: [REDACTED]

My name is _____, and I am of sound mind, capable of
(Custodian)
making this Affidavit, and personally acquainted with the facts herein stated:

I am the person designated as the Custodian of Records by [REDACTED]
[REDACTED]. Attached hereto are ___ pages of records from [REDACTED]
[REDACTED] pertaining to [REDACTED].

I certify the records submitted are true and correct; are kept by [REDACTED]
[REDACTED] in the regular course of business; it was the regular course of business
for an employee or representative with knowledge of the act, event, condition, opinion,
or diagnosis recorded to make the record or to transmit information thereof to be
included in such record; the record was made at or near the time of the act, event,
opinion or diagnosis, and is a complete set of all of the records in our possession and
control. The records attached hereto are the original or exact duplicates of the original.

This Affidavit is made pursuant to 735 ILCS 5/1-109.

Title: _____

By: _____
Affiant's Signature (Custodian of Records)

Print Name: _____

AFFIDAVIT

PATIENT: [REDACTED]
DOB: [REDACTED]
SSN: [REDACTED]
DATES OF SERVICE: [REDACTED]

My name is _____, and I am of sound mind, capable of
(Custodian)
making this Affidavit, and personally acquainted with the facts herein stated:

I am the person designated as the Custodian of Records by [REDACTED]
[REDACTED]. Attached hereto are ___ pages of bills from Alexian Brothers Medical
Group pertaining to [REDACTED].

I certify the bills submitted are true and correct; are kept by [REDACTED]
[REDACTED] in the regular course of business; it was the regular course of business
for an employee or representative with knowledge of the act, event, condition, opinion,
or diagnosis recorded to make the record or to transmit information thereof to be
included in such record; the record was made at or near the time of the act, event,
opinion or diagnosis, and is a complete set of all of the records in our possession and
control. The bills attached hereto are the original or exact duplicates of the original.

This Affidavit is made pursuant to 735 ILCS 5/1-109.

Title: _____

By: _____
Affiant's Signature (Custodian of Records)

Print Name: _____



**AUTHORIZATION FOR RELEASE OF
PATIENT CARE REPORT OR NON-TRANSPORT PCR**

For the Use and Disclosure of Protected Health Information

PLEASE PRINT

Patient Information:

Name

Address _____ **Apt. No.** _____

City _____ **State** _____ **Zip** _____

Date of Birth _____ **Date of Treatment** _____

Location of Incident _____ **Hospital Transported To** _____

Ambulance Number/Engine Number

By signing this Authorization Form, I understand that I am giving my authorization to the City of Chicago Fire Department to use and/or disclose my protected health information (PHI). **I specifically authorize the use and disclosure of PHI pertaining to a Patient Care Report or Non-Transport PCR to the following:**

Name/Organization

Address _____ **Apt. No.** _____

City _____ **State** _____ **Zip** _____

Telephone Number

I specifically authorize the use and disclosure of the following:

- 9 Drug Treatment/Abuse
- 9 Alcohol Treatment/Abuse
- 9 Domestic Violence
- 9 Sickle Cell Anemia
- 9 Mental Health/Psychiatric
- 9 HIV/AIDS
- 9 Sexually Transmitted Diseases

I specifically authorize this use and disclosure for the following purpose: _____
_____.

This authorization shall expire on the 180th day after the signing or as specified _____
_____.

I may revoke this authorization at any time by notifying the City of Chicago in writing. However, I understand that such a revocation will not have any effect on any information already used or disclosed by the City of Chicago before the City received the written notice of revocation.

I understand that a potential exists that the information disclosed pursuant to this authorization may be subject to re-disclosure by the recipient and will no longer be protected by the Health Insurance Portability and Accountability Act.

This Authorization is voluntary, and I may refuse to sign this Authorization form.

I understand that the City of Chicago's health care component may not condition treatment, payment, enrollment or eligibility for benefits on whether I sign this authorization, unless the treatment is research-related.

I understand that I have the right to be provided with a copy of this signed authorization form.

Signature of patient or personal representative

Relationship to patient (if applicable)

Printed name of patient

Printed name of personal representative (if applicable)

Date

Subscribe and Sworn

This _____ **day, of**
_____, **20**_____

Notary Seal

Proof of Representation
Liability Insurance (Including Self-Insurance), No-Fault Insurance,
or Workers' Compensation

Where to find Information on “Proof of Representation” vs. “Consent to Release”

Please refer to the PowerPoint document on this website titled: “Rules and Model Language for ‘Proof of Representation’ vs. ‘Consent to Release’ for Medicare Secondary Payer Liability Insurance (Including Self-Insurance), No-Fault Insurance, or Workers’ Compensation” for detailed information on:

- **When to use a “proof of representation” document vs. a “consent to release” document,**
- Appropriate content for both documents,
- Use of attorney retainer agreements as proof of representation if certain criteria are met,
- The need for appropriate documentation when there are two layers of representatives involved (examples: attorney 1 refers a case to attorney 2; the beneficiary’s guardian hires an attorney to pursue a liability insurance claim) or when a beneficiary’s representative signs a “consent to release” document on the beneficiary’s behalf,
- What liability insurers (including self-insurers), no-fault insurers, and workers’ compensation entities must have in order to obtain conditional payment information, and
- Use of agents by insurers’ or workers’ compensation.

General

Proof of representation is required in order for the MSPRC to communicate with and provide information to a Medicare beneficiary’s representative. Once the MSPRC has the appropriate documentation, it can communicate with the representative and act upon requests made by the representative on behalf of the beneficiary. This includes furnishing conditional payment information and/or a recovery demand letter as well as addressing questions regarding the specific claims included in the conditional payment information, appeal requests or waiver of recovery requests.

Model Language

See attached. Use of the model language is not required, but any documentation submitted as a “Proof of Representation” document must include the information the model language requests.

Where to Submit Proof of Representation:

Liability Insurance, No-Fault Insurance, Workers’ Compensation:

MSPRC - NGHP
PO Box 138832
Oklahoma City, OK 73113
Fax: (405) 869-3309

PROOF OF REPRESENTATION

The language below should be used when you, the Medicare beneficiary, want to inform the Centers for Medicare & Medicaid Services (CMS) that you have given another individual the authority to represent you and act on your behalf with respect to your claim for liability insurance, no-fault insurance, or workers' compensation, including releasing identifiable health information or resolving any potential recovery claim that Medicare may have if there is a settlement, judgment, award, or other payment. You are not required to use this model language, but proof of representation must include the information provided in this model language. Your representative must also sign that he/she has agreed to represent you. This model language also makes provisions for the information your representative must provide.

Type of Medicare Beneficiary Representative (Check one below and then print the requested information):

- () Individual other than an Attorney: Name: _____
 - () Attorney* Relationship to the Medicare Beneficiary: _____
 - () Guardian* Firm or Company Name: _____
 - () Conservator* Address: _____

 - () Power of Attorney* _____

- Telephone: _____

* Note -- If you have an attorney, your attorney may be able to use his/her retainer agreement instead of this language. (If the beneficiary is incapacitated, his/her guardian, conservator, power of attorney etc. will need to submit documentation other than this model language.) Please visit www.msprc.info for further instructions.

Medicare Beneficiary Information and Signature/Date:

Beneficiary's Name (please print exactly as shown on your Medicare card): _____

Beneficiary's Health Insurance Claim Number (number on your Medicare card): _____

Date of Illness/Injury for which the beneficiary has filed a liability insurance, no-fault insurance or workers' compensation claim: _____

Beneficiary Signature: _____ Date signed: _____

Representative Signature/Date:

Representative's Signature: _____ Date signed: _____



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EXECUTIVE DIRECTOR

Writer's e-mail: bcrane@coplancrane.com

August 6, 2013

VIA UPS



RE: Our Client:
Your Insured:
Claim No.:
Date of Injury:
Our Case No:



Dear Ms. Clarke:

I write to you on behalf of our client, [REDACTED], to resolve the bodily injury claim against your insured, [REDACTED]. Because of this crash, [REDACTED] suffered an aggravation of his pre-existing, asymptomatic stage 3 posterior tibial tendon deficiency (rigid hind foot deformity), an aggravation of his pre-existing, asymptomatic left lower extremity pes planus (flat foot), an aggravation of his pre-existing, asymptomatic equinus contracture, and subfibular pain. [REDACTED]'s injuries ultimately required a left ankle fusion (midfoot triple arthrodesis), which involved the placement of four screws into [REDACTED]'s left foot and left ankle.

Rajeev Garapati, M.D., opined that [REDACTED]'s pre-existing conditions were asymptomatic before the crash and that the crash caused [REDACTED]'s pre-existing conditions to become constantly painful. [Record C2.] [REDACTED] has incurred over \$46,000 in medical bills.

We demand that the policy limit of \$100,000.00 be tendered as full and final settlement. We support our demand as follows.

BACKGROUND

Liability is not an issue in this case. The enclosed Illinois Traffic Crash Report makes it clear that liability for this crash lies solely with your insured, [REDACTED]. [Record AA9-10.] Your insured struck [REDACTED], who was riding his bicycle across the street, in the crosswalk.

The impact knocked [REDACTED] to the ground and caused [REDACTED] to land on his left side. [REDACTED] reported immediate injury to the responding officer from the Chicago Police Department.

Therefore, liability is not an issue in this case. Consequently, [REDACTED] [REDACTED] deserves to be compensated for his injuries and related damages.

INJURIES AND PAST MEDICAL TREATMENT

Immediately after the crash, [REDACTED] complained of left hip soreness to responding paramedics V. DeJulio and K. Machel Gibbons of the Chicago Fire Department. [Record D1-2.] [REDACTED] was transported to Swedish Covenant's emergency department.

Upon arrival at Swedish Covenant's emergency department, [REDACTED] complained of pain in his left hip and left ankle. [Record E2.] Upon examination, John W. Graneto, D.O., noted swelling and tenderness in [REDACTED]'s left hip and left ankle. [Record E3-4.] Dr. Graneto applied an ace wrap to [REDACTED]'s left ankle and foot. Dr. Graneto diagnosed [REDACTED] with an ankle contusion and a hip contusion. [Record E5.] [REDACTED] was discharged with medications for his pain.

On March 16, 2012, [REDACTED] presented to Saul S. Haskell, M.D., and complained of continued pain in his left foot, ankle, and hip. [Record B1.] Dr. Haskell reviewed the x-rays from Swedish Covenant, which revealed a deformity of the talus of the left ankle and periosteal reaction along the lateral aspect of the base of the fifth metatarsal of the left foot. Dr. Haskell noted that [REDACTED] walked with a severe limp. Upon examination, Dr. Haskell reported a deformity with marked bony prominence medially and generalized severe tenderness of [REDACTED]'s left ankle and mid foot. [Record B1.]

On March 21, 2012, [REDACTED] underwent a CT scan of his left foot, which revealed severe spurring along the talonavicular joint and anterior calcaneus along with narrowing and bone spurs along the subtalar joint. [Record A1-2; B2.]

On April 5, 2012, [REDACTED] returned to Dr. Haskell and received a cortisone injection into his left foot. The injection provided no relief. [Record B2.]

Dr. Haskell opined that [REDACTED] had an arthritic involvement of the subtalar joint, talonavicular joint and calcaneocuboid joint of the left foot which was present, but asymptomatic before the crash. [Record B2.] Dr. Haskell discussed the options for treatment with [REDACTED], which included surgery, namely a triple arthrodesis, which is a fusion of the subtalar, calcaneocuboid and talonavicular joints. Dr. Haskell opined that although this surgery would result in a severe loss of motion of the left foot, it would maintain ankle motion and relieve [REDACTED]'s pain.

On June 15, 2012, [REDACTED] presented to Rajeev Garapati, M.D., Illinois Bone & Joint Institute for surgical evaluation of his left foot. [REDACTED] complained of continued pain in his left ankle and lower left leg. [Record C1.] Dr. Garapati diagnosed [REDACTED] with left lower extremity pes planus, equinus contracture, rigid hindfoot deformity (stage 3 posterior tibial tendon deficiency), and subfibular pain. [Record C2.] **Dr. Garapati opined that the crash aggravated this condition and caused it to be constantly painful.** [Record C2.] Dr. Garapati discussed surgical options with [REDACTED] and [REDACTED] elected to proceed with a left foot triple arthrodesis.

On August 10, 2012, [REDACTED] returned to Dr. Garapati to discuss his left foot surgery. [Record C7-8] Dr. Garapati informed [REDACTED] that after surgery, [REDACTED] would be non-weight-bearing for two to three months and require months of physical therapy. Dr. Garapati opined that [REDACTED] would always have a stiff left hind foot. Dr. Garapati opined that [REDACTED] would require shoe orthotics for the rest of his life.

On December 4, 2012, Dr. Garapati performed an ankle fusion (left midfoot triple arthrodesis) on [REDACTED] at Advocate Lutheran General. [Record F1-125, operative report F122-123.] The procedure required the placement of four screws into [REDACTED]'s left foot and left ankle. [Record F122.] [REDACTED] was discharged with a cast and ordered to remain non-weight-bearing. [REDACTED] was prescribed Norco, a powerful medication, for his pain.

On December 19, 2012, [REDACTED] returned to Dr. Garapati, two weeks after his surgery. Dr. Garapati opined that the hardware was still in place from surgery. Dr. Garapati ordered [REDACTED] to remain non-weight-bearing and placed [REDACTED] in a short leg cast. [Record C19.] Dr. Garapati instructed [REDACTED] to return in one month.

On January 14, 2013, [REDACTED] saw Dr. Garapati and stated that he had little pain since his ankle fusion. Dr. Garapati instructed [REDACTED] to remain non-weight-bearing. [Record C15.]

On February 11, 2013, [REDACTED] returned to Dr. Garapati and complained of pain in his left foot when he stepped on his left heel. [Record C17.] Dr. Garapati prescribed [REDACTED] a course of physical therapy and placed [REDACTED] in a CAM walker boot. Dr. Garapati issued [REDACTED] a compressive ankle sleeve. Dr. Garapati instructed [REDACTED] to return in a month to discuss shoe orthotics.

On February 12, 2013, [REDACTED] presented to Athletico to begin his course of post-operative physical therapy. [REDACTED] underwent physical therapy at Athletico for three and a half months, from February 12, 2013 through May 23, 2013. [Record H1-91.]

On April 1, 2013, [REDACTED] returned to Dr. Garapati and complained of pain along the lateral and posterior aspects of his ankle during weightbearing activities. [Record C13.] Dr. Garapati instructed [REDACTED] to continue physical therapy and prescribed an over-the-counter orthotic to provide additional support. [Record C13.]

On May 23, 2013, [REDACTED] was discharged from physical therapy after forty-four visits. Tai Whitlow, P.T., gave [REDACTED] a home exercise program so that he could continue his physical therapy independently.

On July 8, 2013, [REDACTED] returned to Dr. Garapati and complained of pain when he walked too much. [Record C11.] Dr. Garapati noted that [REDACTED] had the prescribed orthotic in his left shoe. Dr. Garapati release [REDACTED] from all restrictions with regard to his left foot and instructed him to return in six months. Dr. Garapati instructed [REDACTED] to use over-the-counter anti-inflammatories for pain, as necessary.

PRESENT AND FUTURE INJURIES AND MEDICAL TREATMENT

Today, [REDACTED] reports that he continues to have pain in his left foot when he walks too much or places too much weight on his left foot, left ankle, and left leg, but he manages it persistently with pain medication and his home exercise program.

There is no doubt that [REDACTED] will require future medical treatment going forward. Because of the ankle fusion, [REDACTED] has an altered gait. [REDACTED]'s altered gait places additional stress on the weight bearing joints on the left side of [REDACTED]'s body (left knee, left hip, and lower back).

If forced to litigate this matter, we will seek to establish at trial that [REDACTED] will more likely than not experience pain in his lower back, left hip, and left knee, because of his altered gait. We will also seek to establish at trial that [REDACTED] will more likely than not require future left knee surgeries, which are casually related to the crash. We have litigated foot and ankle fusion cases in the past and the treating physician has always given us the above concessions.

All of the future treatment [REDACTED] will need can be causally related to the crash with your insured. The injuries to his left foot, left ankle, and left leg are significant and will require future care.

[REDACTED] is 48 years old. According to the United States Life Tables, a male 48 years old today, can expect to live another 31.06 years. This means that half of the men alive today at age 48 can expect to live beyond 31.06 years. With a life expectancy of approximately 31 years or more, it is highly likely that the damage he sustained to his left foot and leg could lead to significant future complications and will cause [REDACTED] even more pain and suffering and significant medical treatment.

PAIN AND SUFFERING AND LOSS OF NORMAL LIFE

Because of this crash, [REDACTED] [REDACTED] has endured months of pain and suffering and loss of any semblance of the life he normally led.

Because of this crash, [REDACTED] suffered an aggravation of his pre-existing, asymptomatic stage 3 posterior tibial tendon deficiency (rigid hind foot deformity), an aggravation of his pre-existing, asymptomatic left lower extremity pes planus (flat foot), an aggravation of his pre-existing, asymptomatic equinus contracture, and subfibular pain. [REDACTED]'s injuries ultimately required a left ankle fusion (midfoot triple arthrodesis), which involved the placement of four screws into [REDACTED]'s left foot and left ankle.

Rajeev Garapati, M.D., opined that [REDACTED]'s pre-existing conditions were asymptomatic before the crash and that the crash caused [REDACTED]'s pre-existing conditions to become constantly painful. [Record C2.] [REDACTED] has incurred over \$46,000 in medical bills.

Because of these injuries, [REDACTED] required extensive and thorough medical care and treatment, including surgery, injections, four months of physical therapy, x-rays, MRIs, in addition to being prescribed heavy pain medications, to help him cope with the daily pain these injuries caused.

Because of these injuries, [REDACTED] was precluded from doing the things he loved in life, including driving, working, and exercising. After the crash, [REDACTED] was awakened several times a night from his left foot, left ankle, and left leg. The pain in his left foot, left ankle, and left leg caused [REDACTED] to suffer physical pain and mental suffering and affected every day of his life.

This constant pain and suffering has caused [REDACTED] to miss time from work, time from his friends, and time away from the enjoyment in his daily life and tasks. [REDACTED] will always be aware of his diminished left foot, left ankle, and left leg. It is clear that after this crash, [REDACTED]'s life has been completely and forever altered; his pain and suffering has been excruciating, enormous, and virtually constant for months after the crash.

SETTLEMENT RECOMMENDATION

In keeping with the analysis outlined above, should this matter proceed to trial, I will ask the jury to award [REDACTED] damages based on the following analysis:

-	Past Medical Expenses:	\$ 46,540.02
-	Past Pain and Suffering:	\$ 150,000.00
-	Past Loss of a Normal Life	\$ 150,000.00
-	Future Loss of a Normal Life	\$ 125,000.00
-	Future Pain and Suffering:	<u>\$ 125,000.00</u>
	TOTAL:	\$ 596,540.02

Liability is not a question in this matter and neither is proximate cause. Your insured failed to yield to a bicyclist in the crosswalk. Therefore, on behalf of [REDACTED], we hereby demand the \$100,000.00 policy limit for full and final resolution of this claim.

[REDACTED]'S PRIOR MEDICAL HISTORY AND MEDICAL RECORDS

Enclosed please find the medical records and bills relating to [REDACTED]'s treatment thus far. [REDACTED] has never received or sought medical treatment for his left foot, left ankle, or left leg before this crash. [REDACTED] has never had a primary care physician. The last time [REDACTED] saw anyone in the medical profession, before this crash, was in the 1990s for chest pain.

BAD FAITH

You must be aware that [REDACTED]'s injuries and other related damages warrant a jury verdict in excess of the \$20,000.00 policy. This offer to settle for the policy limits, therefore, will only remain in effect for the next thirty (30) days, until September 5, 2013, at which time it will be withdrawn. In the event that Allstate does not pay the policy limits within 30 days, we will proceed to litigate this case in the Circuit Court of Cook County and at trial; we will ask the jury to render an award based on the damages sustained and not the policy limits. Thereafter, we will file a bad faith claim against Allstate for negotiating in bad faith and for vexatious delay as permitted under the Insurance Code and the Illinois Supreme Court and Appellate Court decisions of *Haddick v. Valor Insurance*, 198 Ill.2d 409 (2002) and *Marcheschi v. Illinois Farmers Insurance Company*, 299 Ill. App. 3d 306 (1st Dist. 1998). In that suit, we will seek [REDACTED]'s full damages, attorney's fees, litigation fees and a \$25,000.00 sanction.

CONCLUSION

It is my hope that given these facts, we will be able to wrap this matter up by September 5, 2013 and fairly compensate [REDACTED]. I hope you share my sentiments. Upon receipt and review of this settlement demand and the records and bills, please contact me. I look forward to hearing from you soon.

Very truly yours,

COPLAN & CRANE, LTD.

By: _____
Ben Crane

Encl. (Medical records/bills; Crash Report)