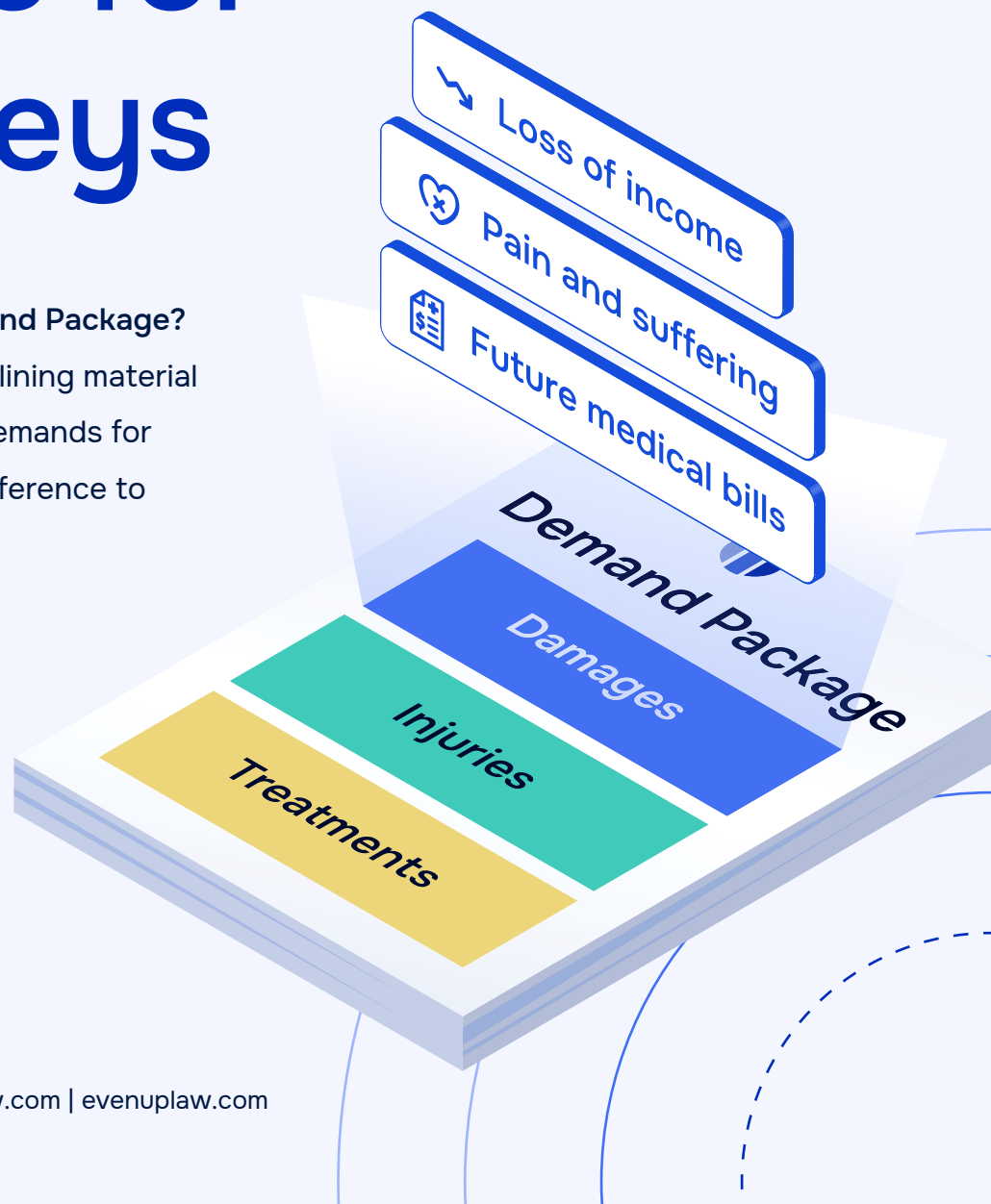




# Demand Package Sample for Attorneys

## What is an EvenUp Demand Package?

A draft demand package, outlining material facts, injuries, and specific demands for elements of damages with reference to supporting documentation.



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👤 Managing Attorney  
at a Virginia personal injury firm

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January 15, 2023

**OFFER OF COMPROMISE PURSUANT TO FLA. STAT. § 90.408**

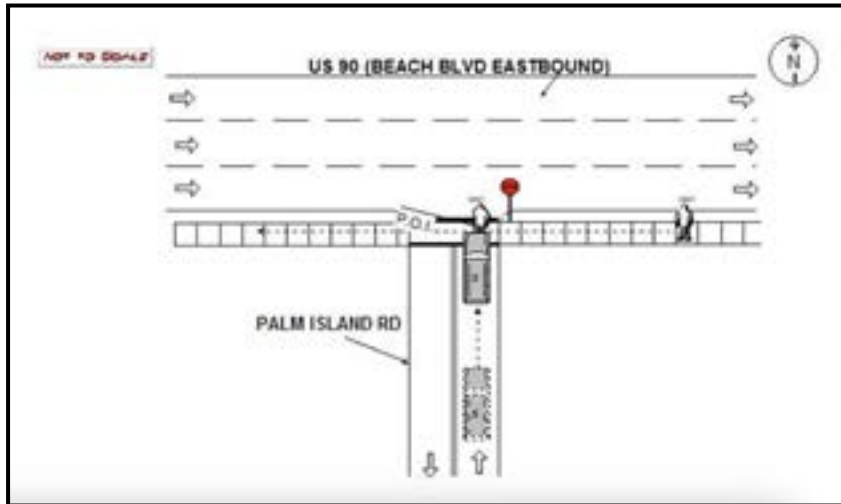
VIA EMAIL: [REDACTED]  
[REDACTED], Esquire  
[REDACTED]

Re: **Our Client:** [REDACTED]  
**Your Client:** [REDACTED]  
**Date of Incident:** February 26, 2020  
**Claim No.:** [REDACTED]

Dear Mr. [REDACTED],

As you know, this firm represents [REDACTED] (“Mr. [REDACTED]” or “our client”) for the injuries he sustained on February 26, 2020, when he was involved in a collision with [REDACTED] (“Ms. [REDACTED]” or “your client”). This demand is a good-faith attempt to resolve our client’s claim in order to save valuable time and avoid the unnecessary time and expense of litigation on this clear liability claim. Of course, this demand is a privileged settlement communication and is not intended for use in future litigation without our consent. No information contained herein should be considered a factual or legal admission by our client.

We expect that you will provide us with a list of any additional items you need in order to properly and fully evaluate this demand within **10 business days of the date of this letter**. We



will make a good-faith effort to respond to any requests you make for additional information regarding this demand. **We also ask that this demand be immediately forwarded to all insurance company decision-makers and, of course, your client.**

## 1. FACTS & LIABILITY

[Note: the following facts and liability narratives have been condensed for illustration purposes only.]

Wednesday, February 26, 2020, began like any other day in the ██████ Household. Mr. ██████ was up early that morning preparing breakfast for himself and his son, ██████ Junior. Mr. ██████ and his little boy were especially happy on this particular morning, in part because it was an early release day from school. Mr. ██████ dropped off his son at school and returned home. By 8:30 A.M., Mr. ██████, who was an active runner training for the upcoming March 2020 Gate River Run 5K, was headed for a four-mile run before returning to his son's school for early dismissal.

Mr. ██████ entered the last quarter mile of his run westbound on the sidewalk alongside U.S. 90/Beach Boulevard approaching the intersection of Palm Island Road in Jacksonville, Duval County, Florida. As Mr. ██████ lawfully traversed through the pedestrian crosswalk, suddenly and without warning, he was struck by the front bumper of a vehicle operated by Ms. ██████, who was traveling northbound on Palm Island Road. Ms. ██████'s vehicle struck the right side of Mr. ██████'s body, causing him to spin around before forcefully falling onto the ground. Mr. ██████ was shocked and slightly dazed as he lay on the hot asphalt. As his adrenaline wore off, Mr. ██████ felt extreme pain and discomfort throughout his neck, back, and abdomen. After striking Mr. ██████, Ms. ██████ emerged from her vehicle and haphazardly stumbled over to Mr. ██████. Mr. ██████ pleaded to Ms. ██████ that she call 9-1-1.

As exposed in the Florida Traffic Crash Report,<sup>1</sup> Deputy ██████ of the Jacksonville Sheriff's Office investigated the collision and determined that Ms. ██████ was the sole party responsible for the collision due to her driving while intoxicated and failure to yield the right-of-way in violation of Florida law.

**The conditions for establishing liability, in this case, are clear.** Ms. ██████ owed a non-delegable duty to exercise reasonable care to pedestrians, Mr. ██████ in particular, while operating a motor vehicle. Pursuant to **Fla. Stat. § 316.193(1)**, “[a] person is guilty of the offense of driving under the influence ... if the person is driving or in actual physical control of a vehicle within this state *and* ... [t]he person is under the influence of alcoholic beverages ... to the extent that the person's normal faculties are impaired [and] [t]he person has a blood-alcohol level of 0.08 or more....” (emphasis added).

On the date of the collision, Ms. ██████ was negligent in that she operated her vehicle while intoxicated, failed to operate her vehicle in a reasonably safe and non-negligent manner on a public roadway, operated her vehicle in a careless and reckless manner in complete disregard for the safety of pedestrians, failed to maintain a safe and controllable operating speed, failed to execute driving maneuvers safely and with due caution for pedestrians, failed to apply her brakes

---

<sup>1</sup> Exhibit 1 – Florida Traffic Crash Report.

in a timely manner, failed to keep a proper lookout, and failed to yield the right-of-way, all of which culminated in an injurious collision with Mr. [REDACTED].

**As evidenced by the photographs below, this was a collision that occurred within a clearly marked and unobscured pedestrian crosswalk that resulted in severe personal injuries and other damages.<sup>2</sup>**



---

<sup>2</sup> Exhibits 2-4 – Photographs of Collision Intersection and Photographs of Client.

## 2. INJURIES & TREATMENTS

### 2.1. Summary of Injuries

We have enclosed all pertinent medical information regarding Mr. [REDACTED]'s injuries. These injuries were suffered as a direct and proximate result of the February 26, 2020, collision. The chart below represents a non-exhaustive summary of the injuries sustained by our client:

[Note: the following ICD codes have been condensed for illustration purposes only.]

Injury/Diagnosis	ICD Code
Pain in Right Ankle and Joints of Right Foot	M25.571
Spondylosis without Myelopathy or Radiculopathy, Cervical Region	M47.812
Postlaminectomy Syndrome, Not Elsewhere Classified	M96.1
Segmental and Somatic Dysfunction of Cervical Region	M99.01
Segmental and Somatic Dysfunction of Lumbar Region	M99.03
Concussion without Loss of Consciousness	S06.0X0A

### 2.2. Treatment

[Note: the medical summations below have been condensed and/or providers have been removed for illustration purposes only and do not constitute the entirety of the client's treatment timeline for this claim.]

Redacted Name Medical Center	
Treatment Timeline	February 26, 2020
Number of Visits	1
Summary	<ul style="list-style-type: none"><li>On February 26, 2020, Mr. [REDACTED] presented to the emergency room for emergent treatment and care. Upon arrival, Mr. [REDACTED] complained of lower back pain, right arm and right leg pain, and posterior head pain. After a physical examination and reviewing the results of Mr. [REDACTED]'s diagnostic imaging, the attending emergency physician diagnosed Mr. [REDACTED] with a back strain/sprain and a head injury. The attending emergency physician discharged Mr. [REDACTED] with prescriptions for Flexeril and Ibuprofen and instructions to consult with his primary care physician if his symptoms persisted or worsened.</li></ul>

Supporting Documents

- Exhibit 5 - Redacted Name Medical Center (Medical Records)

**Redacted Name Orthopedics**

Treatment Timeline

February 27, 2020 - May 26, 2021

Number of Visits

90

Summary

- On February 27, 2020, Mr. [REDACTED] presented to [REDACTED], D.C., for a chiropractic evaluation and treatment. During the initial consultation, Mr. [REDACTED] complained of radicular cervical and lumbar spine pain, right hip, knee, and foot/ankle pain, pain throughout his sternum, and frequent headaches that inhibited his ability to sleep and prevented him from participating in his normal activities of daily living. After a physical examination, Dr. [REDACTED] recommended a treatment plan that consisted of but was not limited to, the following: chiropractic manipulation, soft tissue therapy, and manual therapy. The goals of Mr. [REDACTED]'s treatment plan were to decrease his pain and associated limitations throughout all affected areas and increase his functionality in the performance of his normal activities of daily living.
- On June 16, 2020, Mr. [REDACTED] returned to Dr. [REDACTED] for an orthopedic progress examination. Upon arrival, Mr. [REDACTED] stated that he remained symptomatic for cervical and lumbar spine pain that radiated into his upper extremities and left lower extremities, and that he required the use of a cane for ambulation. After a clinical examination and review of Mr. [REDACTED]'s diagnostic imaging, Dr. [REDACTED] confirmed that Mr. [REDACTED] suffered a failed cervical spine fusion (nonunion) and recommended that he undergo an **L5-S1 Fusion with Hardware Removal (Revision) and a Diagnostic Cervical Spine Epidural at C5-C6**. Dr. [REDACTED] opined that Mr. [REDACTED]'s **mechanical complications of his cervical orthopedic implants/grafts were, to a reasonable degree of medical certainty, directly related to his February 26, 2020, motor vehicle collision.**
- On May 24, 2021, and May 26, 2021, Mr. [REDACTED] returned to Mr. [REDACTED] for a physical therapy progress examination. Over the course of approximately 60 visits, Mr. [REDACTED] underwent skilled physical therapy treatment and care, including multiple courses of postoperative physical therapy, to which he responded favorably. After a physical examination, Mr. [REDACTED] noted that Mr. [REDACTED] had yet to



	reach maximum medical improvement and discharged him with a recommendation that he continue with his prescribed course of physical therapy to address his cervical and lumbar spine deficits.
Supporting Documents	<ul style="list-style-type: none"> <li>● Exhibit 6 - Redacted Name Orthopedics (Medical Records)</li> </ul>

### Redacted Name Imaging

Treatment Timeline	March 12, 2020 - April 8, 2020
Number of Visits	3
Summary	<ul style="list-style-type: none"> <li>● On March 12, 2020, Mr. [REDACTED] presented to [REDACTED], M.D., at which time he underwent diagnostic imaging which revealed, in relevant part, the following: <ul style="list-style-type: none"> <li>○ <b><u>CT of Cervical Spine:</u></b> <ul style="list-style-type: none"> <li>■ Prior Anterior Cervical Discectomy with Fusion at C6-C7 with suspected nonunion and questionable early loosening of the C6 and C7 cervical screws.</li> </ul> </li> </ul> </li> </ul>
Supporting Documents	<ul style="list-style-type: none"> <li>● Exhibit 8 - Redacted Name Imaging (Medical Records)</li> </ul>

### Redacted Name Surgery Center

Treatment Timeline	April 17, 2020 - September 15, 2020
Number of Visits	3
Summary	<ul style="list-style-type: none"> <li>● On September 15, 2020, Mr. [REDACTED] returned to Dr. [REDACTED], at which time he underwent a <b>Revision C5-C6 Anterior Cervical Discectomy and Fusion</b>. Mr. [REDACTED] tolerated the procedure well and was discharged with prescriptions for Oxycontin and Gabapentin and instructions to return for a postoperative examination at Redacted Name Orthopedics.</li> </ul>
Supporting Documents	<ul style="list-style-type: none"> <li>● Exhibit 10 - Redacted Name Surgery Center (Medical Records)</li> </ul>

### 3. DAMAGES

#### 3.1. Total Projected Claim Value

<b>Elements of Damages</b>	
<b>Economic Damages</b>	
Past Medical Expenses	\$203,520.39
Future Medical Expenses	\$85,740.00
Loss of Income	\$267,030.93
Loss of Household Services	\$18,099.34
<b>Non-Economic Damages</b>	
Past and Future Pain and Suffering	\$1,000,000.00
Punitive Damages	\$1,000,000.00
<b>Total Damages</b>	<b>\$2,574,390.66</b>

#### 3.2. Past Medical Expenses

<b>Provider</b>	<b>Date of Service</b>	<b>Amount Charged</b>	<b>Supporting Document(s)</b>
Redacted Name Medical Center	2/26/2020	\$37,010.90	Exhibit 12
[Note: interim provider totals and exhibits have been removed for illustration purposes only.]			
Redacted Name Physicians	6/29/2020 - 9/15/2020	\$16,912.00	Exhibit 18
<b>Total</b>		<b>\$203,520.39</b>	

If you claim any of the medical treatment above was unnecessary, or that any of the bills associated with such treatment were unreasonable, then please identify in writing which bills you dispute and the factual basis for such dispute. If you dispute them with a qualified expert opinion from a doctor willing to testify, then please provide us with a copy of his/her report. If not, please confirm in writing that you dispute the bills as an adjuster or an attorney and not a qualified medical professional. If you do not respond in writing to this report of past medical expenses, we will assume you do not dispute the amount of medical bills set forth above.

### 3.3. Future Medical Expenses

Mr. [REDACTED] continues to experience pain and symptomatology as a result of the injuries he sustained in the collision at issue and will require additional treatment moving forward, including, but not limited to, physical therapy, orthopedic treatment and care, pain management, diagnostic imaging, and multi-level spine epidural steroid injections. Thus, a conservative estimate of future medical care for Mr. [REDACTED] is **\$85,740.00**.

Procedure	Years	No./Year	Cost	Total
Physical Therapy	3	12	\$250.00	\$9,000.00
[Note: interim future medical totals have been removed for illustration purposes only.]				
Multi-Level Spine Epidural Steroid Injections	3	3	\$4,000.00	\$36,000.00
<b>Total</b>				<b>\$85,740.00</b>

*Note that the costs of healthcare and medication will continue to rise significantly, and we reserve the right to revise our projection of future medicals on this basis, among others. We also note that this estimate is only for three years and could readily be augmented for additional years of medical treatments.*

### 3.4. Loss of Income

Based on Mr. [REDACTED]'s income information for tax years 2019 and 2020, as well as the attached Economic Loss Report estimating that he will be unable to return to work until at least May 2024,<sup>3</sup> Mr. [REDACTED] suffered a loss of income totaling **\$267,030.93** when he was rendered unable to work due to the injuries he sustained in the February 26, 2020, collision. These losses are broken down as follows:

Loss of Income Schedule			
Start of Loss Date	End of Loss Date	Lost Income	Net Loss
2/26/2020	12/31/2020	\$49,125.68	\$49,125.68
[Note: interim loss of income totals have been removed for illustration purposes only.]			
1/1/2024	5/25/2024	\$27,696.60	\$27,696.60
<b>Total Loss of Earnings</b>		<b>\$267,030.93</b>	<b>\$267,030.93</b>

<sup>3</sup> Exhibit 19 - Loss of Income Documentation and Economic Loss Report.

### 3.5. Loss of Household Services

As a result of the collision, we estimate that Mr. [REDACTED] has been unable to contribute **\$18,099.34** in labor in the form of past and future household services. Our calculation rests on three variables:

1. Before his collision, we assume that Mr. [REDACTED] contributed an average of 2.08 hours of household chores per day to the household, in line with the average contribution of persons of similar age and gender in America.
2. We assume that the monetary value of Mr. [REDACTED]'s labor is consistent with the average housekeeping salary of \$11.92 an hour in the State of Florida, as estimated from the May 2020 report on Occupational Employment and Wages by the U.S. Bureau of Labor Statistics.
3. In our estimation, Mr. [REDACTED] suffered a 100% impairment from contributing to household chores from February 26, 2020, through May 26, 2021, and a conservative 25% impairment for three years thereafter.

Assuming no further impairment of household chores after May 26, 2024, solely for simplicity and convenience of early settlement, we calculate the value of loss of household services between February 26, 2020, and May 26, 2024, at **\$18,099.34**.

Loss of Household Services Schedule					
Start of Loss Date	End of Loss Date	Hourly Rate	Hours Per Day	% Impaired	Net Loss
2/26/2020	5/26/2021	\$11.92	2.08	100%	\$11,305.89
5/27/2021	5/26/2024	\$11.92	2.08	25%	\$6,793.45
<b>Total Loss of Household Services</b>					<b>\$18,099.34</b>

### 3.6. Past and Future Pain and Suffering

As you know, Florida law allows for our client to be compensated for non-economic damages for the purpose of compensating a claimant for physical pain and suffering, emotional pain or anguish, physical impairment, loss of enjoyment of life, and all other nonpecuniary losses of any kind other than exemplary damages. No set formula exists under Florida law by which an award of non-economic damages can be measured. Such decisions are left to the common sense of the jury, and the jury enjoys wide latitude in determining the amount of non-economic damages to award. A personal injury victim in Florida can claim the full extent of his non-economic damages. Therefore, “per diem” arguments (i.e., a certain monetary amount for each day our client suffered from the pain and suffering as a result of the injuries sustained) are proper.

[Note: the following pain and suffering narrative has been condensed for illustration purposes only.]

There is no question that the collision on February 26, 2020, caused Mr. █████ a great deal of physical and emotional pain and suffering. Since the collision, Mr. █████’s priorities have shifted from parenting and providing for his family to pain management. Mr. █████ is prescribed Oxycodone up to three times daily for severe neck and back pain. He tries not to take it as often as prescribed; however, sometimes, it is simply, and unfortunately, a necessity. Pain, along with the use of narcotics, causes Mr. █████ to tire easily, which makes it difficult to keep up with his former lifestyle and activities. Pain also negatively impacts Mr. █████’s quality of life, reduces his independence, and hinders his ability to engage in activities he once enjoyed. Despite his pre-collision neck and back injuries, Mr. █████ enjoyed a physically active lifestyle, which included regular cardio exercise, running, and competing throughout Florida. To be clear, Mr. █████’s prior neck and back injuries never hindered or otherwise impeded his ability to run or participate in competitive races.



*\*Cropped for Confidentiality*

## Verdict Analysis

Based on case results with similar facts, we assert that Mr. [REDACTED] is entitled to, at least, past and future pain and suffering damages in the amount of **\$1,000,000.00**. As justification for this claim, we direct your attention to the following:

[Note: the following verdict analysis has been condensed for illustration purposes only.]

<b>Verdict</b>	
Citation	<i>Joseph Price v. Kevin Buccieri and Reliable Towing and Storage, Inc.</i> , 2018 Jury Verdicts LEXIS 37924.
State	Florida
County	St. Lucie
Award	\$10,000,000.00 (including \$8,197,303.00 for past and future pain and suffering)
Summary	On October 4, 2016, Joseph Price was traveling on the Florida Turnpike near mile-marker 141 in Port St. Lucie, Florida. At the same time, Kevin Buccieri was traveling behind Price in a flatbed truck when, suddenly and without warning, Price was rear-ended by Buccieri. At trial, medical evidence revealed that Price was diagnosed with multi-level spinal disc herniations at C3-4, C5-C6, C6-C7, L3-L4, L4-5, and L5-S1. Price initially underwent conservative treatment for his spinal injuries, which included physical therapy and a lumbar epidural injection. In May 2017, Price underwent a microdiscectomy and a laminectomy, followed by an anterior cervical disc fusion at C3-C4, C5-C6, and C6-C7. Medical testimony revealed that Price was still undergoing pain management treatment for his neck at the time of the trial. The jury found in Price's favor and awarded him \$10,000,000.00.
Relevance	In both instances, Price and Mr. [REDACTED] were injured as a result of a careless, inattentive, or otherwise negligent driver. Mr. [REDACTED], like Price, suffered multi-level spinal disc injuries that required conservative pain management followed by a discectomy with spinal fusion. Like Price, Mr. [REDACTED] suffered a decreased range of motion in his neck, back, and lower extremities. Also, like Price, Mr. [REDACTED] required ongoing treatment and care under a pain management specialist and an orthopedist. In addition, Mr. [REDACTED] will require future interdisciplinary pain management, orthopedic treatment and care, physical therapy, and diagnostic imaging as he continues to undergo treatment for the injuries he sustained in the collision. Therefore, we find that this verdict represents a strong benchmark for estimating the amount of compensation a similarly situated jury would award Mr. [REDACTED] today.

Per Diem Analysis

Our conservative per diem analysis shows that Mr. ██████'s claim for past, present, and future pain and suffering is valued at **\$1,153,120.00**. A jury will consider not only Mr. ██████'s initial pain and suffering to date but also his subsequent pain and suffering. Below are some very conservative figures we would present to a jury to consider, in addition to his other damages:

- \$50.00/hr. for initial pain and suffering from February 26, 2020, to May 26, 2021; and
- \$45.00/hr. for subsequent pain and suffering from May 27, 2021, to May 26, 2024.

<b>Pain &amp; Suffering</b>	
<b>Initial Pain &amp; Suffering</b>	
Initial Period (in Days)	456
Waking Hours/Day	16.0
Reasonable Compensation/Hour	\$50.00
<b>Total Initial Pain &amp; Suffering</b>	<b>\$364,000.00</b>
<b>Subsequent Pain &amp; Suffering</b>	
Subsequent Years with Pain	3
Days/Year	365
Waking Hours/Day	16.0
Reasonable Compensation/Hour	\$45.00
<b>Total Subsequent Pain &amp; Suffering</b>	<b>\$789,120.00</b>
<b>Total Pain and Suffering</b>	<b>\$1,153,120.00</b>

In light of the per diem analysis above, we assert that **\$1,000,000.00** is fair and equitable compensation for Mr. ██████'s initial and subsequent pain and suffering.

### 3.7. Punitive Damages

As you know, Florida law allows that punitive damages may generally be assessed when the act in question was committed with malice, moral turpitude, wantonness, willfulness, outrageous aggravation, or in reckless indifference to another person's legal rights. *Zuckerman v. Robinson*, 846 So. 2d 1257, 1258 (Fla. Dist. Ct. App. 2003). In *Ingram v. Pettit*, 340 So. 2d 922, 923-24 (Fla. 1976), the court confronted the issue of whether a jury should be allowed to consider an award of punitive damages where negligence is coupled with intoxication, and decidedly held that "juries may award punitive damages where voluntary intoxication is involved in an automotive accident in Florida without regard to external proof of carelessness or abnormal driving." Moreover, the jury has broad discretion in fixing an amount of punitive damages. *Zuckerman* at 1260. It is undisputed that Ms. [REDACTED] was voluntarily intoxicated on the morning of February 26, 2020. Given the facts and circumstances giving rise to Mr. [REDACTED]'s injuries, we believe that a jury would easily find that Ms. [REDACTED]'s reckless and willful conduct on the date of the collision warrants the imposition of punitive damages. Therefore, we estimate that Mr. [REDACTED] is entitled to **\$1,000,000.00** in punitive damages.



#### 4. DEMAND TO SETTLE

[Note: the following firm-specific demand conclusion has been condensed for illustration purposes only.]

It has come to our attention that your client maintained a \$2,000,000.00 umbrella policy. As you can see, our client's damages are well above your client's policy limits. Given the severity of the injuries sustained by Mr. [REDACTED], the likelihood of being able to settle within your client's policy limits becomes slimmer with each passing day that Mr. [REDACTED]'s damages continue to increase. You can settle Mr. [REDACTED]'s claim by tendering a check for **\$2,000,000.00** to our office by 5:00 P.M. on February 22, 2023.

**Please note, any settlement in this matter, at any time, is also contingent upon prior receipt of complete Fla. Stat. § 627.4137 disclosures on all applicable policies to this collision. Finally, this correspondence and any accompanying attachments are to be utilized for this claim *only* and are classified as settlement negotiations under applicable law. *See, e.g., Atwater v. Gulf Maint. & Supp., Inc.*, 424 So. 2d 135, 136 (Fla. Dist. Ct. App. 1982) (all parts of settlement offers are privileged).**

Please do not hesitate to contact me if you have any additional questions or concerns. Thank you for your anticipated cooperation.

Sincerely,

[REDACTED], Esquire

**Exhibit List**

<b>Exhibit No.</b>	<b>Description</b>
1	Florida Traffic Crash Report
2	Photographs of Collision Intersection
3	Photographs of Injuries
4	Photographs of Client Prior to Collision
5	Redacted Name Medical Center (Medical Records)
6	Redacted Name Orthopedics (Medical Records)
7	Redacted Name Spine and Pain Center (Medical Records)
8	Redacted Name Imaging Center (Medical Records)
9	Redacted Name Anesthesia Consultants (Medical Records)
10	Redacted Name Surgery Center (Medical Records)
11	Redacted Name Physicians (Medical Records)
12	Redacted Name Medical Center (Bills)
13	Redacted Name Orthopedics (Bills)
14	Redacted Name Spine and Pain Center (Bills)
15	Redacted Name Imaging Center (Bills)
16	Redacted Name Anesthesia Consultants (Bills)
17	Redacted Name Surgery Center (Bills)
18	Redacted Name Physicians (Bills)
19	Loss of Income Documentation and Economic Loss Report



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- Flagging of missing bills or records
- ICD codes to each injury
- A summary of providers
- Dates of treatment
- Number of visits
- Key highlights of each visit

The screenshot shows a document titled "INJURIES" with a table of medical diagnoses and their corresponding ICD codes. The table has two columns: "Diagnosis" and "ICD Code".

Diagnosis	ICD Code
Contusion	M54.2
Strain of joints and ligaments of unspecified parts of back	S12.89XA
Radiculopathy of thoracic region	M54.14
Lumbar radiculopathy	M54.50
Back stiffness	M25.8
Right rotator cuff tear	M75.11
Post-traumatic tendinitis	S44.221
Segmental and axonal dysfunction of cervical region	M88.01

## FACTS & LIABILITY

### DAMAGES

Element of Damages	Amount
Past Medical Expenses	\$7,476.71
Future Medical Expenses	\$225,025.00
Loss of Income	\$12,750.00
Loss of Household Services	\$11,025.00
Pain and Future Pain and Suffering	\$81,800.00
<b>Total Damages</b>	<b>\$400,881.71</b>

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