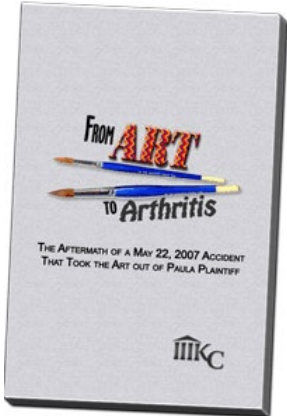


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Prior to an accident which left her with a permanent disability to her left hand and numerous orthopedic injuries, Paula Plaintiff was an active and energetic 37 year old, left handed painter who established great success in her profession, critical acclaim in the world of art, and fulfillment as a wife and mother of four. While her left hand was the tool of her trade in creating fine oil paintings and other masterpieces, the accident left her with two surgical operations and permanent injuries which rendered her incapable of practicing her profession.

### [SUMMARY OF COLLISION AND POTENT NATURE OF IMPACT](#)

On Friday, May 22, 2008 shortly before 5:00 p.m., Ms. Plaintiff pulled out of the parking lot at Acme Art Supplies, took a right onto Amabo Road, and proceeded south. She was in the center lane crossing the 695 beltway when Donna DeFendant, driving her mid-sized vehicle, made a left turn in front of Ms. Plaintiff's 2007 Pontiac Montana. Ms. DeFendant's vehicle struck the driver's side front corner and wheel of Ms. Plaintiff's van. Although Ms. Plaintiff had her foot on the brake, her car was pushed into the right lane. Donna DeFendant's car ended up facing south in front of Ms. Plaintiff's car and to the right. Although restrained with seat and shoulder belts, Ms. Plaintiff was forced to grip the steering wheel tightly when her wheel turned. Seconds after the crash Ms. Plaintiff felt a horrible pain in her left thumb. She screamed over and over again about the pain in her hand. The intense pain and the lack of movement in her thumb made it impossible for her to shift her car into park. A witness to the accident helped her by reaching into the car and putting it into park.

According to the police report, Ms. DeFendant tried to excuse her negligence by claiming that Ms. Plaintiff was traveling in excess of the 30 mile per hour speed limit in the roadway. Combined with her failure to properly observe traffic, Ms. DeFendant's negligence caused a potent impact, which resulted in close to \$4,000.00 in property damage to her 2007 Pontiac Montana.<sup>1</sup>

Far beyond the property damage, Paula recalls the pain and trauma of the accident to have been potent as well:

Seconds after the crash I felt a horrible pain in my left thumb. But my thoughts turned to [my daughter] Kristin, she appeared to be in a state of shock. People seemed to appear out of nowhere and everyone wanted to know how we were. Scared, and in extreme pain, shock and fear, I remember screaming about the pain in my hand over and over. A policeman approached the car and asked me for my insurance card, license and registration. I couldn't get to them without pain. I

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<sup>1</sup> Although the initial estimate of property damage to Ms. Plaintiff's 2007 Pontiac Montana was \$2,995.16, this was supplemented by an additional \$929.24, bringing the total property damage to \$3,924.40.

noticed the car was still in drive and my foot still hard on the break. I tried to reach for the shift to put the car in park, but the intense pain and seemingly lack of movement in my thumb prevented me from doing so. A witness, Aida, I think she said her name was, reached in and got the car into park and cut the engine. The ambulance arrived and a paramedic asked me to step out of the car. How could I leave Kristin and [our dog] Ruffy alone. Friends of mine appeared on the scene, having passed by and offered help. Thank them for taking Kristin and Ruffy away safely. I had to borrow a cell phone to call & find my husband. I reached a friend, who drove to where he and my son were playing little league. She told [my husband] Marv I was on my way to St. Nedib, by ambulance after a car accident with injuries.

### SUMMARY OF INJURIES

In layperson's terms, the ligament in Ms. Plaintiff's left hand had been cut by the force of the steering wheel turning. In medical terms, Ms. Plaintiff suffered a Stener lesion, i.e., a complete tear of the ulnar collateral ligament for which she required surgery on June 9, 2008. On July 7, 2009, 13 months later, she would be forced to undergo another procedure on her hand. This time a release left thumb web space contracture with multiple Z-plasties and debridement of osteophytes on the left thumb IP joint would be performed. In layperson's terms, Ms. Plaintiff had developed a postoperative scar contracture and progressive pain on the back of the left thumb IP joint that continue to plague her to this day.

In addition to the damage done to her hand, Ms. Plaintiff would experience numerous other physical difficulties as a result of the May 22, 2008 incident. Immediately after the accident, Ms. Plaintiff experienced left leg pain that caused limping, along with lower back pain that radiated into the right leg with numbness. Only after numerous physical therapy treatments would Ms. Plaintiff find relief.

After two operations, Ms. Plaintiff now lives with permanent problems in her hand, punctuated by the development of arthritis in a 40 year old woman who lives with constant painful reminders of an accident that left her permanently disabled and unable to practice a profession she loved.

### HISTORY OF TREATMENT

#### *Complete Tear of Left Thumb MP Joint Ulnar Collateral Ligament*

Immediately following the May 22, 2008, Paula Plaintiff was rushed by ambulance to St. Nedib Hospital. Recalling the transport in horror, Paula would record in her diary that “[t]he ambulance ride was awful. They immobilized my hand for the ride and gave me ice packs.” Complaining of sharp pain in her left thumb, left wrist, lower back, left knee and leg, emergency room personnel observed a left knee contusion, bruising and swelling in her thumb and her left arm was placed in a plaster splint and sling. After more than three hours in the emergency room,

attending physicians recommended that she consult with an orthopedic surgeon for more extensive treatment.

Paula was unable to sleep on evening of the accident. Following doctors' orders, she applied ice to her left thumb, lower hand and knee throughout the night in an effort to ease the swelling. Taking Motrin for pain, she could not attend to hygiene, was unable to dress and undress herself, assist with her children at bedtime, or drive. Despite her difficulty sleeping, Paula's diary described her "worst nightmare." Unable to write, draw, sketch or paint and throbbing in intense pain, this accomplished painter with a love of her craft began to worry, "will I ever paint again?" Despite the treatment which ensued, including two operations on her dominant left hand and thumb, her worst nightmare was, indeed, realized in the wake of this accident.

By the evening after the accident, on Saturday, May 23, 2008, it was clear that something was terribly wrong. Ms. Plaintiff's entire left hand and upper arm was swollen to the size of a watermelon. Her wrist, hand, and thumb throbbed. By May 28, 2008, Ms. Plaintiff consulted with Dr. Keith A. Handman of Greater Chesapeake Hand Specialists, to investigate her hand injury. Upon examination, this surgeon readily observed a marked swelling around the thumb MP joint. X-rays reviewed that day confirmed a volar subluxation of that joint. Diagnosing a complete tear of left thumb MP joint ulnar collateral ligament with a probable Stener lesion, Dr. Handman recommended immediate surgery, predicting several months of recovery thereafter. On May 28, 2008, Ms. Plaintiff also visited DayLife Hand Therapy where she would receive many months of therapy for her hand.

Preparing for the reality of surgery, on June 6, 2009, Paula was scared, but reluctantly prepared to undergo an operation which she hoped would ultimately eliminate the pain and return to her the use of her left hand.

I'm exhausted tonight and have more pain than I can remember in my left hand. Tonight at dinner, it hurt so bad, I just started to cry. My thumb had a strange sensation and then there was a sharp pain were the ligament damage is. I am so afraid of the surgery next week. I've never had surgery before. I can't heal without it, I have to have it. Will it hurt this bad after? Will I be able to do my artwork again after?

On June 9, 2008, 18 days after the accident, Dr. Handman operated on Paula's hand at United Medical Hospital. Ms. Plaintiff had experienced persistent pain over the ulnar collateral ligament with gross instability on stress testing. At surgery, a Stener lesion confirming a complete tear of the ulnar collateral ligament was noted. The formal diagnosis, both before and after surgery, was a left thumb metacarpophalangeal ulnar collateral ligament tear. The procedure performed was repair of left thumb metacarpophalangeal ulnar collateral ligament – an injury which would not heal with a single operation and would require substantial treatment thereafter.

On June 22, 2008, Ms. Plaintiff again presented to Dr. Handman for removal of her sutures and the placement of her arm in a cast. Four weeks after the operation, on July 9, 2008, Ms. Plaintiff once again visited Dr. Handman, who removed a pin which had been inserted in her hand. Ms. Plaintiff was then scheduled to begin a course of therapy and to return in two weeks. On July 9, 2008, Paula Plaintiff also went to DayLife Hand Therapy to have a splint made.

Unaware that she would require a second operation less than a year later, Ms. Plaintiff began a course of therapy for her thumb on July 14, 2008. Visiting the United Medical Hospital Hand Center for an initial patient evaluation, Paula had already been placed in two different casts following the surgery and a thumb spica splint by the start of her physical therapy. Observing that Paula was "very anxious" during that visit, her therapist began the arduous and painful task of rehabilitating her hand.

Initially, it appeared that therapy was helping Paula's symptoms. On July 16, 2008, Ms. Plaintiff received a hand treatment at DayLife Hand Therapy, and she reported to Therapist A. Edmond that "it's getting better." On July 20, 2008, Ms. Plaintiff reported to DayLife Hand Therapy for treatment and stated: "It's getting a lot better." By July 22, 2008, the therapist reported that she had shown an improvement in the range of motion in her hand, but it was far from her pre-accident state.

On July 23, 2008, Dr. Handman converted the cast to a hand-based split, but continued the physical therapy. Complying with treatment recommendations, Paula received more treatment on July 23, 27, and 29, and on August 4, 6, and 10.

Two months after surgery, on August 13, 2008, Dr. Handman reported that, although the joint was stable to radial stress, Ms. Plaintiff was continuing to experience a significant amount of stiffness with weakness in grip strength. Placed in a dynamic flexion splint, she was directed to continue therapy and return in four weeks.

After additional sessions of therapy on August 13, 17 (in which a new splint was constructed), 18, 20, 24, 27, 31, and on September 3, 8, 10, and 14, Ms. Plaintiff returned to Dr. Handman's office on September 17, 2008. A full three months after surgery, Dr. Handman reported that Ms. Plaintiff's thumb MP joint was more stable and that she had improved her range of motion, although her pinch strength was markedly reduced. Ms. Plaintiff was directed to continue with therapy and to begin weaning off the dynamic flexion splint. She was to return in six weeks.

After continuing treatments at United Medical Hand Center and DayLife Hand Therapy on September 17, 22, 29, and on October 8, 13, 20, and 27, she returned again to Dr. Handman on October 29. In that visit, Dr. Handman reported that she had half of her MP motion with a stable joint, and her grip strength was two-thirds. Without more improvement, she was directed to stop formal therapy and to return in two months. By January 7, 2009, Paula was far from her artistic self. Unable to master the strength and dexterity to paint, Paula continued to complain to

“tightness and some discomfort in writing.” As Dr. Handman had previously feared the development of arthritic changes in her hand, x-rays began to show degenerative changes in this young patient. Unable to provide additional treatment at that point, Dr. Handman promised this patient that he “will follow up if she has further difficulty.”

Unfortunately for Paula, time did not heal this wound. Experiencing further difficulties in her hand, Ms. Plaintiff could not continue to leave these problems unaddressed. She returned to Dr. Handman's office on May 22, 2009, continuing to complain of tightness and some discomfort with writing. On examination, Dr. Handman found that moderate swelling and weakness was present in her hand. X-rays of the joint continued to show minimal degenerative changes. Diagnosing Ms. Plaintiff as having reached maximum medical improvement after the injury, this conservative surgeon observed that Paula's persistent stiffness and discomfort were expected consequences from the serious injury sustained.

Reflecting on the pain that she experienced in her hand during the year after her June 9, 2008 operation, Paula did not have to do too much reminiscing. As noted in her diary on June 6, 2008, she continued to experience significant stiffness and pain:

It has been one year now since my surgery and tomorrow I am going to see Dr. Handman for a one year follow-up. My thumb still causes me daily aggravation and I hope he has some help and advice for me. I pray it is not to have another surgery. He spoke about that the last time we met and I will do anything to avoid that. \* \* \* [M]y pain and discomfort stems from pain in one joint and stiffness in my thumb and inability to bend the other joint. It can't make it bend and it can't make me more flexible and that is what I need. Everyday I find limitations in my daily activities. Whether it is gripping something heavy with my left hand (forget that!) or writing anything, even a simple note - I have the painful reminder when ever I try to use my thumb with pressure. Now what can be done about this. Was this to be expected after this accident? Did the ligament tear happen in an unusual place, or is this just how it is after a repair and reattached ligament?

Paula addressed these issues with Dr. Handman on June 7, 2009, complaining that she had persistent pain over the dorsum of the thumb MP joint and that she was concerned about contracture of the thumb. On examination, Dr. Handman found a thumb web space contracture and a painful nodule on the dorsum of the thumb IP joint, accompanied by some limitation of motion. Paresthesias was found around the old incision. X-rays confirmed a bony fragment on the dorsum of the thumb IP joint in the area of extensor insertion. Diagnosing a painful osteophyte thumb IP joint and thumb web space contracture, Dr. Handman discussed with Ms. Plaintiff the removal of the osteophyte of the thumb IP joint and release of the thumb web space contracture. Ms. Plaintiff indicated that she would call if she decided to have surgical treatment. Without the surgical treatment, however, Dr. Handman concluded that Ms. Plaintiff had reached maximum medical improvement from the injury and would have to live with this pain permanently.

By July 4, 2009, Paula was hardly able to declare her independence from treatment. Unable to bear the pain and limitations, and desperately hoping to resume her life's work as a painter, Paula prepared for yet another operation on her left hand:

Now, as surgery gets closer, the memories of *last time* are coming flooding back to me. It seems like everything I do these past few days, is a reminder of what I won't be able to do, again. Making the bed, cooking, showering, putting on my bra, tie my shoes, washing, folding laundry, ironing, going to the bathroom, going swimming, walking the dog, driving, eating, sleeping. The list will go on and on. Nothing I will need to do the rest of this summer will be able to be done without some help from someone. They will have to cut my food, buckle my bra; carry, wash, dry and fold the laundry; fasten Ruffy's leash on; pick up heavy things keep me and the house clean and straight and many, many other things that I will be unable to do one handed, again.

\* \* \*

I can't prepare for many of the other things that I will be unable to do one handed. I keep warning the family. How quickly they have forgotten, but they will remember soon. I know, I am remembering with every move I make.

I am so scared, again. Maybe more so since I know every detail of what is ahead. They changed my surgery time to 2:00. Last year I waited all afternoon to go into surgery. I sat there for hours, as the doctor was behind schedule. I hope the waiting is less this time. We are not leaving for surgery until 12:30 this year. I remember feeling the initial cut in my hand last time and then I remember having pain in my chest during the procedure and in recovery. The procedure is longer, though. Yuch. The nurse called the other day to go over all the instructions and if I had any questions. Yes- is there an alternative to surgery?

The pain in my thumb hasn't gone away, it hurts to write, cut, pick up and carry things and if anything it is stiffer. I guess it will be better after this surgery. That is the point of it! 6-8 weeks of rehab, ahead. Lots of time away from the office, again. One-handed typing and writing with my other hand. Lots of waiting and patience lay ahead. I hope I have it. It has been 14 months since the accident. A lot of patience is needed to deal with this recovery. It has run short a lot! Just ask my family.

Scared and reluctant, but in desperate need of relief, Paula underwent a second hand operation on July 7, 2009, little more than a year after her first surgery. Because Ms. Plaintiff had developed a postoperative scar contracture and progressive pain on the dorsum of the left thumb IP joint, Dr. Handman performed a release of the left thumb web space contracture with multiple Z-plasties and debridement of osteophytes in the left thumb IP joint. The procedure was necessary because the mass in the thumb IP joint was an arthritic spur and because there were erosions at the head of the proximal phalanx down to subchondral bone in the central portion.. X-rays confirmed an avulsion fracture. The Surgical Pathology Report prepared by Dr. Quincy Morbidian concluded that the left thumb web space was a portion of fibroadipose tissue with

attached fragment of reactive synovium, clinically from scar contracture.

On July 15, 2009, Ms. Plaintiff returned to Dr. Handman's office. At surgery on July 7, 2009, Dr. Handman had found degenerative changes in the thumb IP joint with spurring. On examination, Dr. Handman found that Ms. Plaintiff's wound was healing well. He removed her sutures and again placed her in therapy. Fitted with a custom thumb webspace splint, she was instructed to return to his office in three weeks.<sup>2</sup>

On July 21, 2009, Ms. Plaintiff returned to a place that she knew all too well – DayLife Hand Therapy. According to prescription, Ms. Plaintiff was to receive hand therapy one to two times per week for four to eight weeks.

On August 5, 2009, Ms. Plaintiff returned to Dr. Handman's office. Dr. Handman reported that the web space contracture was greatly improved, although there was some thickened scar. Ms. Plaintiff had some tenderness and crepitus over the dorsum of the IP joint. She was instructed to continue therapy and to return in six weeks.

Ms. Plaintiff reported to DayLife Hand Therapy for treatment on July 23, 27, on August 3, 6, 10, 12, 17, 19, 30, and on September 2, 8, and 10, 2009. During these visits, she repeatedly reported significant pain in the hand that once was used as the tool of her trade. In various sessions, Paula would advise her therapist that "it still hurts to use thumb tip," she was "unable to write with standard pen because of pain; experiencing persistent weakness in thumb," that she could not "grip paint brushes in a steady manner," that she had "persistent pain in IP joint;" "thumb felt better on vacation because she wasn't using it," that "six hours after last treatment symptoms in thumb improved but symptoms returned," that she has "been keeping thumb in the splint to avoid pain at work;" and that she "didn't wear splint yesterday and had severe pain."

Returning to her surgeon on September 16, 2009, Ms. Plaintiff informed Dr. Handman of persistent pain about her thumb IP joint. Upon examination, Dr. Handman found tenderness and crepitus, although there was good return of MP motion and the scar contracture had not progressed. Diagnosing post-traumatic arthritis of the left thumb IP joint, Dr. Handman released Ms. Plaintiff from his care and formal therapy. The result: After an accident in which Paula sustained complete tear of left thumb MP joint ulnar collateral ligament and two operations to repair the damage, a young, gifted painter was left with an arthritic hand and a craft she can only reminisce about.

According to Dr. Handman, Paula may require a third operation, consisting of an IP arthrodesis of the thumb, which would effectively fuse the joint in an effort to control her pain.

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<sup>2</sup> On July 16, 2009, Dr. Sue Fingers saw Ms. Plaintiff. Because her wound was partially open in the first web space, he inspected it. No evidence of infection was found; the wound was clean and dry.



While Paula would prefer to avoid additional surgery, such an operation would force this young woman to endure additional hospitalization and a recuperation period estimated at approximately four months. This is hardly the type of future that Paula Plaintiff looked forward to.

### *Orthopedic Injuries*

While Paula's hand injuries have left a lasting mark on her life, the potent collision caused by the negligence of Donna DeFendant were felt in other areas of her body.

Although receiving minimal treatment at St. Nedib Hospital on the evening of the accident itself, the pain in Paula's shoulders and back prompted her to seek treatment for these injuries as well. After enduring the pain for more than a month, on July 6, 2008, Ms. Plaintiff presented to Dr. Stuart Chalk for relief of achiness in her left and right shoulder, low back pain on the left and right that was worse when bending, and right arm and hand pain that she described as a soreness from overuse because her left arm was in a cast.

Dr. Chalk's examination revealed paravertebral muscle spasm at the level of C2 through C4 and L1 through L5 bilaterally. Ms. Plaintiff was unable to perform the toe walking test. Hyperesthesia of the C7 dermatome on the right was found. Range of motion in the cervical spine was painful in right and left lateral flexion and right and left rotation. Range of motion in the lumbodorsal spine was painful in left lateral flexion and was painful in flexion, extension and left lateral flexion. Leg raising produced a light low back pain and double leg lowering produced pain. Lidnar's test was positive. After administering manipulative therapy to the cervical, thoracic and lumbar spine and myofascial release, Dr. Chalk instructed Ms. Plaintiff to return for additional treatment. She did so on July 7, 8, 10, 13, 15, 17, 20, 22, 24, 27, 29, 31, and on August 3 and 6, 2008. Feeling much better, but continuing to experience occasional discomfort in her low back. Dr. Chalk discharged Paula from chiropractic treatment on August 6, 2008.

Occupied with the extensive treatment following her hand surgery and the limitations presented by that injury, Paula would continue to experience pain in her shoulders and back while hoping that it would resolve on its own. It did not. Unable to live with the pain, on November 16, 2008, Ms. Plaintiff presented to orthopedic surgeon Dr. Harvey N. Max, complaining of daily low back pain. Ms. Plaintiff explained that although her pain was better when she stood, it radiated down the lateral left thigh with numbness and tingling on a daily basis. X-rays were taken. Diagnosing (1) longstanding degenerative changes of the lumbar spine, (2) continued problems from the left hand surgery of June 2008, and (3) low back and left lower extremity complaints due to the May 22, 2008 MVA, Dr. Max prescribed Ibuprofen 600mg three times a day with meals.

By Thanksgiving Day, 2008, Paula Plaintiff had little to be thankful for. Beyond her hand problems, she anxiously awaited the results of a magnetic resonance imaging test to determine the cause of her back problems:

Since I went to Dr. Max and have been waiting for the MRI, I have not been for chiropractic treatment. I have pain every night. I wake up with lower back pain and leg pain and cannot get comfortable and fall asleep. Last night I discovered a comfortable position when I lay on my side and put a pillow between my legs. The pain was still there, but this enabled me to fall back asleep. After all I wanted to sleep in on this Holiday. The last several weeks I wake up around 4:30 or 5:00 am and cannot fall back asleep. Finally today I slept until 7:45 with a pillow between my legs. I am so afraid of what they'll find tomorrow. I await the results.

On December 1, 2008, Dr. Max telephoned Ms. Plaintiff with the results of her MRI from November 27, 2008. Although her back was pain free before the accident, this post-accident test revealed explained that degenerative changes in her spine were rendered symptomatic in the accident. To address the problem further, Dr. Max recommended that Ms. Plaintiff see the doctors at Baltimore Orthopedics.

Continuing to experience daily back pain, on February 4, 2009, Ms. Plaintiff presented to Dr. Michael A. Machetti at Baltimore Orthopedics. In this visit, Paula described persistent back pain radiating in a radicular distribution down both legs, but worse on the left side and also persistent right knee pain laterally. Diagnosing (1) a lumbosacral strain with mild left sided neuroforaminal narrowing at L5-S1 with primarily left lumbar radicular symptoms and (2) right knee strain/sprain, Dr. Machetti prescribed a lumbosacral support, a lumbar cushion, a knee brace, Medrol Dosepak and Skelaxin, physical therapy, and home exercise.

Following Dr. Machetti's prescription, on February 8, 10, 12, 15, 17, 19, 22, and 24, 2009, Ms. Plaintiff presented to HealthWest for physical therapy treatment. On February 25, 2009, Ms. Plaintiff presented to Dr. Machetti, reporting moderate improvement of her orthopedic condition. Her medication regimen and particularly her home exercises helped. Her right knee symptoms were resolved, and although her low back pain persisted, it was improved. Radiation down her left leg occurred only at the end of the day after she had been on her feet for lengthy periods of time. Diagnosing improving lumbosacral strain with mild left neural foraminal narrowing at L5-S1 with improving left lumbar radicular symptoms, Dr. Machetti added to his previous prescriptions a course of Relafen 750.

Following physical therapy treatment on February 26, March 1, 3, 5, 8, 10, 12, 15, and 17, Ms. Plaintiff visited Dr. Machetti on March 18, 2009, Ms. Plaintiff reported that these sessions were helping her cope with the pain. In fact, Paula had no radicular complaints in the lower extremities. Diagnosing improving lumbosacral strain with mild neural foraminal narrowing at L5-S1, Dr. Machetti continued the prescriptions given on February 25, 2009.

On March 19, 22, 24, 26, 29, 31, and April 2, 2009, Ms. Plaintiff presented to Health South for physical therapy treatment. On April 15, 2009, Ms. Plaintiff visited Dr. Machetti, reporting that her back pain had resolved. She had no radicular type complaints in either lower

extremity. Diagnosing resolved injuries caused by the accident at issue, Dr. Machetti discharged Ms. Plaintiff from Baltimore Orthopedics.

Unfortunately, while Paula's back problems responded to treatment, her hand will never been the same, leaving her permanently disabled in a part of her body which was once her stock in trade.

**SPECIAL DAMAGES**

Although the numbers pale by comparison with the pain and disability that Paula continues to experience in her daily life, she has also paid dearly in dollars and cents:

|                                              |   |                    |
|----------------------------------------------|---|--------------------|
| <b>Medical Expenses</b>                      | = | <b>\$22,377.50</b> |
| St. Nedib Hospital:                          |   | \$ 717.22          |
| United Medical Hospital:                     |   | \$ 1,466.15        |
| Greater Chesapeake Hand Specialists:         |   | \$ 4,317.00        |
| Chalk Chiropractic Center, P.A.:             |   | \$ 1,743.00        |
| Stephen R. Max, M.D., P.A.                   |   | \$ 350.00          |
| Baltimore Orthopedics, P.A.                  |   | \$ 1,315.00        |
| Advanced Radiology                           |   | \$ 810.00          |
| American Radiology                           |   | \$ 24.00           |
| Pikesville Volunteer Fire Company            |   | \$ 75.00           |
| Giant Pharmacy                               |   | \$ 91.13           |
| Chesapeake Preoperative                      |   | \$ 612.00          |
| HealthWest Physical Therapy                  |   | \$ 3,085.00        |
| Comprehensive Medical Evaluation             |   | \$ 215.00          |
| Hunt Valley Anesthesia Assoc.                |   | \$ 680.00          |
| Parkway Ventures, Inc./Bay Life Hand Therapy |   | <u>\$ 6,877.00</u> |
| <b>TOTAL:</b>                                |   | <b>\$22,377.50</b> |

**Anticipated Future Medical Expenses = \$5,000** [includes surgical fee, anesthesia, therapy and recovery; plus additional damages associated with four-month recuperation period]

**Lost Income = \$15,150.00**

As a result of the accident, and in connection with literally hundreds of doctors visits, therapy sessions and two operations required to address the injuries sustained, the following chart shows Paula Plaintiff's lost time from her work, totaling 202 hours at her standard hourly rate of \$75.00:

| <b>Date</b> | <b>Time Lost at Work (hours)</b> | <b>Reason</b>                                   |
|-------------|----------------------------------|-------------------------------------------------|
| 05-23-08    | 6                                | Injured – in bed                                |
| 05-24-08    | 6                                | Injured – in bed                                |
| 05-28-08    | 2                                | Dr. Handman appt. / DayLife - splint            |
| 06-05-08    | 4                                | Pre- Op Testing                                 |
| 06-08-08    | 6                                | Errands – pre surgery preparation               |
| 06-09-08    | 7                                | Surgery                                         |
| 06-10-08    | 7                                | Recovery                                        |
| 06-11-08    | 7                                | Recovery                                        |
| 06-12-08    | 6                                | Recovery                                        |
| 06-22-08    | 2.5                              | Dr. Handman                                     |
| 07-07-08    | 0 (after work)                   | Dr. Chalk                                       |
| 07-08-08    | 0 (after work)                   | Dr. Chalk                                       |
| 07-09-08    | 4                                | Dr. Handman/DayLife - splint                    |
| 07-10-08    | 2.25                             | Dr. Chalk                                       |
| 07-13-08    | 2.25                             | Dr. Chalk                                       |
| 07-14-08    | 2.5                              | DayLife - Hand therapy                          |
| 07-15-08    | 2.25                             | Dr. Chalk                                       |
| 07-16-08    | 2.5                              | DayLife - Hand therapy                          |
| 07-17-08    | 2.25                             | Dr. Chalk                                       |
| 07-20-08    | 3.5                              | Dr. Chalk & DayLife - Hand Therapy              |
| 07-22-08    | 2                                | DayLife - Hand Therapy (Dr. Chalk – after work) |
| 07-22-08    | 0 (after work)                   | Dr. Chalk                                       |
| 07-23-08    | 1.5                              | Dr. Handman                                     |
| 07-24-08    | 1.5                              | Dr. Chalk                                       |
| 07-27-08    | 3.5                              | Dr. Chalk & DayLife - Hand therapy              |
| 07-29-08    | 3.5                              | Dr. Chalk & DayLife - Hand therapy              |
| 07-31-08    | .75                              | Dr. Chalk                                       |
| 08-04-08    | 2                                | DayLife - Hand therapy                          |
| 08-06-08    | 3.5                              | Dr. Chalk & DayLife - Hand therapy              |
| 08-10-08    | 2                                | DayLife - Hand therapy                          |
| 08-13-08    | 3.5                              | DayLife - Therapy & Dr. Handman                 |
| 08-17-08    | 2                                | DayLife - splint                                |
| 08-18-08    | 1.5                              | DayLife - Hand therapy                          |
| 08-20-08    | 1.5                              | DayLife - Hand therapy                          |

|          |                     |                                 |
|----------|---------------------|---------------------------------|
| 08-24-08 | 1.5                 | DayLife - Hand therapy          |
| 08-27-08 | 1.5                 | DayLife - Hand therapy          |
| 08-31-08 | 1.5                 | DayLife - Hand therapy          |
| 09-03-08 | 1.5                 | DayLife - Hand therapy          |
| 09-08-08 | 1.5                 | DayLife - Hand therapy          |
| 09-10-08 | 1.5                 | DayLife - Hand therapy          |
| 09-14-08 | 1.5                 | DayLife - Hand therapy          |
| 09-17-08 | 3.5                 | DayLife - Therapy & Dr. Handman |
| 09-22-08 | 1.5                 | DayLife - Hand therapy          |
| 09-29-08 | 1.5                 | DayLife - Hand therapy          |
| 10-08-08 | 1.5                 | DayLife - Hand therapy          |
| 10-13-08 | 1.5                 | DayLife - Hand therapy          |
| 10-20-08 | 1.5                 | DayLife - Hand therapy          |
| 10-27-08 | 1.5                 | DayLife - Hand therapy          |
| 10-29-08 | 1.5                 | Dr. Handman                     |
| 11-05-08 | 1.5                 | Attorney                        |
| 11-16-08 | 1.5                 | Dr. Max                         |
| 11-27-08 | 2                   | MRI                             |
| 01-07-09 | 1.5                 | Dr. Handman                     |
| 02-01-09 | .75                 | Pick Up MRI films               |
| 02-04-09 | 2.5                 | Dr. Machetti                    |
| 02-08-09 | 3                   | HealthWest                      |
| 02-10-09 | 0 (done at 7:00 am) | HealthWest - Therapy            |
| 02-12-09 | 0 (done at 7:15 am) | HealthWest - Therapy            |
| 02-15-09 | 0 (done at 7:15 am) | HealthWest - Therapy            |
| 02-17-09 | 0 (done at 7:15 am) | HealthWest - Therapy            |
| 02-19-09 | 0 (done at 7:15 am) | HealthWest - Therapy            |
| 02-22-09 | 1                   | HealthWest - Therapy            |
| 02-24-09 | 0 (done at 7:15 am) | HealthWest - Therapy            |
| 02-25-09 | 1.5                 | Dr. Machetti                    |
| 02-26-09 | 0 (done at 7:15 am) | HealthWest - Therapy            |
| 03-01-09 | 0 (done at 7:15 am) | HealthWest - Therapy            |
| 03-03-09 | 0 (done at 7:15 am) | HealthWest - Therapy            |
| 03-05-09 | 0 (done at 7:15 am) | HealthWest - Therapy            |
| 03-08-09 | 0 (done at 7:15 am) | HealthWest - Therapy            |

|          |                     |                        |
|----------|---------------------|------------------------|
| 03-10-09 | 0 (done at 7:15 am) | HealthWest - Therapy   |
| 03-12-09 | 0 (done at 7:15 am) | HealthWest - Therapy   |
| 03-15-09 | 0 (done at 7:15 am) | HealthWest - Therapy   |
| 03-17-09 | 0 (done at 7:15 am) | HealthWest - Therapy   |
| 03-18-09 | 1                   | Dr. Machetti           |
| 03-19-09 | 0 (done at 7:15 am) | HealthWest - Therapy   |
| 03-22-09 | 0 (done at 7:15 am) | HealthWest - Therapy   |
| 03-24-08 | 1.5                 | HealthWest - Therapy   |
| 03-26-08 | 1.5                 | HealthWest - Therapy   |
| 03-29-08 | 1.5                 | HealthWest - Therapy   |
| 03-31-09 | 0 (done at 7:30 am) | HealthWest - Therapy   |
| 04-02-09 | 0 (done at 7:30 am) | HealthWest - Therapy   |
| 04-15-09 | 1                   | Dr. Machetti           |
| 05-22-09 | 1.5                 | Dr. Handman            |
| 06-07-09 | 2                   | Dr. Handman            |
| 06-30-09 | 2                   | Dr. Pinkey – Pre-Op    |
| 07-07-09 | 7                   | Surgery                |
| 07-08-09 | 7                   | Recovery               |
| 07-09-09 | 7                   | Recovery               |
| 07-15-09 | 2                   | Dr. Handman            |
| 07-16-09 | 1.5                 | Dr. Fingers            |
| 07-21-09 | 2.5                 | DayLife – Hand Therapy |
| 07-23-09 | 1.5                 | DayLife – Hand Therapy |
| 07-27-09 | 1.5                 | DayLife – Hand Therapy |
| 08-03-09 | 1.5                 | DayLife – Hand Therapy |
| 08-05-09 | 1.5                 | Dr. Handman            |
| 08-06-09 | 1.5                 | DayLife – Hand Therapy |
| 08-10-09 | 1.5                 | DayLife – Hand Therapy |
| 08-12-09 | 1.5                 | DayLife – Hand Therapy |
| 08-17-09 | 1.5                 | DayLife – Hand Therapy |
| 08-19-09 | 1.5                 | DayLife – Hand Therapy |
| 08-30-09 | 1.5                 | DayLife – Hand Therapy |
| 09-02-09 | 1.5                 | DayLife – Hand Therapy |
| 09-08-09 | 1.5                 | DayLife – Hand Therapy |
| 09-10-09 | 1.5                 | DayLife – Hand Therapy |

|          |     |             |
|----------|-----|-------------|
| 09-16-09 | 1.5 | Dr. Handman |
| TOTAL    | 202 |             |

Combining lost time from work and the medical expenses incurred to date, Paula’s *special damages currently total \$37,527.50*, and will increase by at least approximately \$5,000 if she elects to endure a third operation. Beyond these numbers, Paula has lost substantial earning capacity due to the loss of her profession as a painter. While she has mitigated her damages substantially by dramatically shifting the nature of her work in a party planning business, the loss of her lifelong dream cannot be measured in dollars and cents.

[IMPACT ON LIFE](#)

Perhaps the best illustrations of the impact on Paula Plaintiff’s life are her own illustrations – detailed artwork requiring grip, precision and manual dexterity which she has lost forever.

Little more than a month prior to the accident, internationally-acclaimed Czech artist Sergey Gantser-Macher hosted an exhibition of neo-expressionist art which featured Paula’s paintings together with other “talents on the rise.” In welcoming guests to his Manhattan gallery, Gantser-Macher praised Paula’s work as “one of the truly gifted painters of the movement. Paula, I think we all know, is one neo-expressionist that expresses the essence of life.” Expressing appreciation for Paula’s own portrait of Gantser-Macher, the famed neo-expressionist added, “She could certainly have picked a better subject. ... But, like the brush strokes of many a master, Paula has captured here a level of surrealistic detail which conveys a humanity that lies beneath the irrepressible afterglow of our collective soul.”

Far from the ability to paint finely-detailed masterpieces, Paula has not only found her hand incapable of the precision and flexibility required in that endeavor, she has experienced difficulty doing things that those of us who lack artistic talent take for granted. Experiencing great difficulty attending to her own needs following the accident, Paula was unable to dress and undress herself, floss her teeth or style her hair. She had trouble attending to her family’s needs as well. Unable to drive for a significant period after the accident, Paula was unable to prepare meals for her family, could not help her children get ready for school or bed, and could not take care of her family's home. Once able to drive, Paula has never been able to grip the steering wheel the same way again – both literally and in terms of the psychological trauma lingering after this horrific accident.

Having prepared a diary of the pain, anxiety and fear which she experienced in the wake of Donna DeFendant's negligence, Paula’s journal is replete with references to constant discomfort, loss of grip in her hand and the daily reminders of the May 22, 2008 accident:

I also find it hard to grip things with my thumb and four fingers or to reach in my purse and fish around for my wallet. I often lose my grip and then go in with my other hand. That is a habit that I have yet to break. I also notice this when I hold a book open while reading to Kristin, or when trying to pick up an open box, using that same grip. I have to switch to a grip that doesn't involve my thumb.

I noticed that since I have stopped going to therapy, the scar bands seem to have reappeared in the web spacer area. I've been noticing a lot of pain recently when I open my reach there and now see that there are several scar bands that seem to have formed. So I wonder now will that keep getting worse? It seemed better for some time after this last surgery, but why it got worse, who knows. Now what?!

More than the pain and suffering, it may be said that the greatest loss sustained in this accident is the loss of a dream:

I hate to think that all this will only get worse down the road over time. I always dreamed of a painter's loft off my bedroom, with a skylight to let in natural light and lots of great art supplies all arranged for creative access. I guess I should let that dream go, since there is no longer a painter here to live out that dream. I just wish I knew what other bends are in the road ahead.

For Paula Plaintiff, the road came to a disturbing detour on Amabo Road. Taken by ambulance to face the start of years of treatment, punctuated by two operations and the loss of a promising artistic career, Paula now shares something in common with those in nursing homes:

I went to visit with my first art teacher in the nursing home over the weekend. While there, I assisted another patient to her room. She was stuck in the middle of the hall in her wheel chair. She said her hand was all locked up - that she suffers from arthritis - and she couldn't grip the wheelchair and that is how she got stuck. My heart went out to her. I guided her back to her room and she couldn't thank me enough. She was disabled by arthritis. Is that how bad I can expect it to get? I'm way too young for this.

I have seen other people who suffer from arthritis and I see their pain and suffering. I am very scared about my future.

A young wife and mother of four should not have to be scared about her future, or experience the pain of arthritis long before her time. Although instilled with a spirit and will that has survived the accident, Paula Plaintiff will never be the same again in the aftermath of the collision that robbed her of her dreams.

**KRAMER & CONNOLLY**  
**Attorneys At Law**