

CAUSE NO. 64596-0-1

COURT OF APPEALS, DIVISION 1  
OF THE STATE OF WASHINGTON

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NADEZHDA PANITKOVA, individually and NELLI  
PANITKOVA and DENIS PANITKOV, minor  
children and herein represented by their natural  
parent and legal guardian NADEZHDA PANITKOVA,

Appellants,

v.

PAVEL PANITKOV, individually and KIM KUHNHAUSEN  
and "JOHN DOE" KUHNHAUSEN, individually and/or  
the marital community composed thereof,

Respondents.

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BRIEF OF APPELLANTS

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COURT OF APPEALS  
DIVISION 1  
2010 SEP 14 PM 1:17

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## **Introduction**

This case involves a motor vehicle collision in Vancouver, Washington. The Panitkova family had traveled from their home in the Seattle area to Vancouver for a family wedding. Nadezhda Panitkova and three of her children, Pavel, Denis and Nelli were in their car. Pavel was driving. They had just arrived in Vancouver in early evening and were within a block or two of their relatives' home when Pavel slowed down to make a right turn onto another street in a residential area. Just before he began his turn a car driven by defendant Kim Kuhnhausen began to pass him on the right and struck the entire right side of the Panitkova vehicle, extensively damaging the car, pushing it through the intersection, and injuring the three plaintiffs.

This action was filed against both drivers, Kuhnhausen and Pavel, both of whom claimed the other was at fault.

This case was tried to a jury of twelve, who returned a verdict in favor of Kuhnhausen and against Pavel.

This appeal raises the issue of whether the award of damages was adequate, and requests relief in the form of a new trial on the issue of damages. The liability finding is not challenged, and defendant Kuhnhausen

should not be involved in this appeal.

**Assignments Of Error**

1. It was error for the jury to return a verdict for less than the amount of the actual medical expenses that were proven to be caused by the actions of the defendant and that were reasonable and necessary, for which there was no contradicting evidence.
2. It was error for the jury to return a verdict which included no general damages for any of the three plaintiffs.

**Issues Pertaining To The Assignments Of Error**

1. May the jury return a verdict for only a small portion or none of the medical expenses when the plaintiff has offered evidence that the expenses incurred were caused by the negligence of the defendant, were reasonable and necessary, and where the defendant offers no contradicting evidence?
2. In a case where the jury finds that the defendant was negligent in causing a motor vehicle collision and awards damages for the damage to plaintiff's motor vehicle, and also awards a small portion of

defendant Nadezhda Panitkova's medical bills, may the jury refuse to award any general damages to all three plaintiffs?

### **Statement Of The Case**

This case arises out of a motor vehicle collision that occurred in the early evening hours of October 12, 2007. Nadezhda Panitkova and three of her children were in the car at the time. Her son Pavel Panitkov was driving, she was in the front seat next to him, and her son Denis Panitkov and daughter Nelli Panitkova were in the back seat. (RP 25-26) Her son Pavel is one of the defendants.

The collision occurred in Vancouver, Washington. (RP 78) Defendant Pavel Panitkov was traveling on 172<sup>nd</sup> Street, which is in a residential neighborhood and has one lane in each direction. (RP 27) Pavel was intending to turn right onto Sixth Street, (RP 27) and he slowed down, but before he made his turn their car was struck on the right side by another vehicle. (RP 28) The Panitkova vehicle was damaged on the right side, from the right rear fender to the to the right rear door and the right front door, and pushed to the opposite side of Sixth Street facing the other direction. (RP 30)

All three plaintiffs were injured in the collision. Nadezhda was

frightened and in shock immediately, and started feeling pain that night. She could not step on her leg, had headaches, and was not able to sleep. (RP 36) She was in pain during a family wedding the next day. (RP 37) She sought medical treatment two days later. (RP 38) When she went to the chiropractor on October 19<sup>th</sup>, she had pains in her upper back, mid back, lower back, leg and arm, and also had headaches. (RP 40) Nadezhda also described how her injuries affected her and her activities, including inability to garden, inability to do house cleaning and cooking, lack of sleep, and inability to attend church and participate in church activities. (RP 47-50) Denis was also injured in the collision. His left back struck the inside of the car, and his sister Nelli leaned into him. He felt pain that first night when he went to bed, and his upper back and head hurt. He sought medical treatment on October 20. (RP 8-9) Denis also testified as to his medical treatments and how the injuries affected his daily life, including his inability to sit quietly in class at school, to concentrate, to draw well, and to play with his friends as he had done before the injury. He was unable to help as much around the house, and had difficulty sleeping. (RP 10-14) And finally, Nelli, the third plaintiff, was also injured in the collision. The impact moved her body to the left, and she was initially scared and frightened. Later that same day, she felt pain in her

back, neck, and low back, and had trouble sleeping that night. She sought medical treatment on October 20. (RP 104-105) Nelli also testified that it was very hard for her to sit in class and concentrate, and she had difficulty doing her homework. After the injury she was unable to play the piano, and she couldn't attend church where she had been in the chorus. She was not able to walk normally, read, or help with household chores because of the pain. She could not sleep well, had nightmares, and woke up screaming at night. ( RP 107-110)

All three plaintiffs received medical care and treatment, consisting of chiropractic treatments or massage therapy, from Chiropractic Wellness & Rehab. (RP 7-8) The charges for the medical services to Nadezhda were \$3,889.23 for chiropractic and \$2,187.50 for massage. (RP 26, EX5) The charges for the medical services to Nelli were \$749.40. (RP 26-27, EX8) The charges for the medical services to Denis were \$749.40. (RP 27, EX9)

The only expert and the only medical care provider who testified at the trial was Dr. Alnoor Bhanji, D.C., who testified that based on his education, training and experience, and on a more probable than not basis, (1) the injuries for which his office treated all three plaintiffs were caused by the accident of October 12, 2007 (RP 34-35), (2) the chiropractic and massage

therapy treatments were reasonable and necessary (RP 29), and (3) the charges that were made for these treatments were reasonable and normal in this community. (RP 29)

Since the parties had agreed that the plaintiff Nadezhda Panitkova's property damage was in the amount of \$4,000.00, the court's instruction number 20 to the jury advised the jury to award property damage in that amount if they made an award to the plaintiffs. (CP 99-100)

The jury returned their verdict on the Special Verdict Form provided to them, in which they found that (1) defendant Kuhnhausen was not negligent, (2) defendant Pavel Panitkov was negligent, (3) Pavel's negligence was a proximate cause of the injury or damage to the plaintiffs, (4) awarded the mandatory amount of \$4,000.00 for property damage, (5) awarded Nadezhda only \$300.00 for her medical bills and nothing for her general damages, and (5) awarded Nelli and Denis nothing for either medical bills or general damages. (CP 74-76)

Judgment was entered on that verdict. (CP 145-147)

Plaintiffs moved for a new trial on the issue of damages (CP 107-115) which was denied by the trial court without oral argument. (CP 143-144) This appeal ensued.

### Argument

Superior Court Civil Rules, CR 59, provides that a verdict may be vacated and a new trial granted for a number of reasons including “. . . (5) [d]amages so excessive or inadequate as unmistakably to indicate that the verdict must have been the result of passion or prejudice; . . . (7) [t]hat there is no evidence or reasonable inference from the evidence to justify the verdict or the decision, or that it is contrary to law; . . . or (9) [t]hat substantial justice has not been done.”

In *Palmer v. Jensen*, 132 Wn.2d 193, 199, 937 P.2d 597 (1997), the Washington Supreme Court reversed both the trial court and the Court of Appeals, holding that the trial court abused its discretion in not granting the plaintiff a new trial when the jury awarded a verdict equal to unchallenged medical expenses, but failed to award general damages.

In the present case, the only expert or medical care provider who testified was Dr. Alnoor Bhanji, D.C., the owner and supervisor of the clinic where the plaintiffs received treatment. Neither defendant presented any evidence to contradict Dr. Bhanji’s testimony. Dr. Bhanji’s testimony and the plaintiffs’ testimony of their injuries was uncontradicted. The testimony of all four of those witnesses describe and document the extent and nature of

their injuries.

In *Palmer, supra*, the court stated at page 196:

The defendant presented no evidence to refute these medical opinions. Instead, counsel for the defendant contended in closing argument that the evidence presented by the plaintiffs failed to prove Palmer was injured and, alternatively, that only a portion of the two and one-half year treatment was justified.

In the present case, the defendants presented only the testimony of the defendants themselves and of defendant Kuhnhausen's daughter who was a fact witness to the collision.

In *Palmer, supra*, the jury awarded the plaintiff the exact amount of her medical bills, \$8,414.89, p. 196. Palmer's appeal was based solely on the fact that the jury awarded only the special damages and failed to award general damages. *Palmer, supra*, p. 198. In the present case, the Panitkovas are contending that the jury failed to award adequate uncontested special damages and in addition failed to award general damages. The *Palmer* court states clearly that "We have held in numerous other cases that the court can assume the jury failed to award damages for pain and suffering where the verdict is equal to or less than uncontroverted special damages." *Palmer, supra*, p. 200.

In the present case, exhibits 5, 8 and 9 were admitted into evidence

without objection, and were used as part of the basis for Dr. Bhanji's testimony. Dr. Bhanji testified that Nadezhda's medical bills were \$3,889.23 for chiropractic treatments and \$2,187.50 for massage therapy; that Nelli's medical bills were \$749.40 for chiropractic treatments; and that Denis's medical bills were also \$749.40 for chiropractic treatments. He also testified that in his professional opinion, on a more probable than not basis, the injuries he treated were caused by the October 12, 2007 motor vehicle accident, were necessary treatments, and that the amount of the bills was reasonable. There was no other evidence to challenge or contradict that testimony. The total amount of the medical bills for all three plaintiffs was \$7,575.53. The medical bills reflect that Nadezhda received medical treatment for just over three (3) months, and that Nelli and Denis received treatment for about three (3) weeks each.

Since the parties stipulated that the amount of damage to the Panitkova vehicle was \$4,000.00, the jury was instructed in jury instruction number 20 that should they find any defendant liable they were to award \$4,000.00 for economic damages for that item. The jury's award, as reflected on the Special Verdict Form, was to Nadezhda for Economic Damages of \$4,300.00. Neither of the other two defendants was awarded Economic

Damages and none of the plaintiffs was awarded Non Economic Damages. The only reasonable conclusion is that the jury awarded Nadezhda \$4,000.00 for damage to her vehicle (which was stipulated) and \$300.00 for her medical bills, and nothing else to any of the plaintiffs.

The facts of the current case are even stronger than those of *Palmer, supra*. It was contrary to the uncontroverted evidence for the jury to fail to award all of the medical bills of in excess of \$7,500.00, in addition to failing to award any general damages for pain and suffering.

The medical evidence substantiates Pamela Palmer's claim that she experienced pain and suffering for over two years after the accident. We hold the jury's verdict providing no damages for Palmer's pain and suffering was contrary to the evidence. The trial court therefore abused its discretion when it denied Palmer's motion for a new trial. *Palmer, supra*, p. 203.

This conclusory statement could just as accurately be written by substituting the names of Nadezhda, Nelli and Denis and adding the medical bills as well as the pain and suffering.

It should be noted that the *Palmer* court granted relief by remanding ". . . for a new trial on the issue of . . . damages only." which is the relief sought by the plaintiffs in the present case.

The plaintiffs contend that *Palmer, supra* is exactly on point, and that the facts in the present case are almost identical with the facts in *Palmer*,

though even stronger in the present case due to the jury's failure to award most of the medical bills. However, there are other Washington cases that also support the law set forth in *Palmer*.

In *Ide v. Stoltenow*, 47 Wn.2d 847, 289 P.2d 1007 (1955), the jury returned a verdict in the sum of \$1,246.24 when the plaintiffs had asked for \$21,465.47 of which \$20,000.00 was general damages. P. 848. After discussing the evidence and the ranges in value, potentially, of the special damages, the court concluded that if the jury had intended to award general damages it was less than \$500.00. P. 850.

The *Ide* court concluded:

We recognize that it can be said that the jury could have disbelieved all of the plaintiffs' experts and also disbelieved or disagreed with the conclusion of the defendants' expert whose testimony we have quoted. The difficulty with that argument is that, carried to its logical conclusion, there never could be an inadequate verdict, because the conclusive answer would always be that the jury did not have to believe the witnesses who testified as to damages, even though there was no contradiction or dispute.

It is our view that, in determining whether a new trial should be granted because of inadequate damages, the trial court and this court are entitled to accept as established those items of damage which are conceded undisputed, and beyond legitimate controversy.

If the amount of general damages is placed at the irreducible minimum of \$500, the verdict of \$1,246.24 is clearly inadequate and not sustained by the evidence. The trial judge did not abuse his discretion in entering an order granting a new trial, and that order is affirmed.

*Ide, supra*, p. 851.

The *Ide* decision, which it should be noted was cited in *Palmer, supra*, stands for the proposition that even if the jury awards general damages they may be so inadequate as to require a new trial.

The 1993 decision in *Krivanek v. Fibreboard Corp.*, 72 Wn.App. 632, 865 P.2d 527 (1993), out of Division 1, also granted a new trial on one of the several claims due to a trial court award of inadequate damages.

Denial of a new trial on grounds of inadequate damages will be reversed where the trial court abuses its discretion. *Woolridge v. Woollett*, 96 Wash.2d 659,668, 638 P.2d 566 (1981). A trial court abuses its discretion when its exercise of discretion is manifestly unreasonable or based on untenable grounds. *Allard v. First Interstate Bank of Wash., N.A.*, 112 Wash.2d 145,148, 768 P.2d 998, 773 P.2d 420 (1989). In determining whether a new trial should be granted because of inadequate damages, the trial court and this court are entitled to accept as established those items of damage which are conceded, undisputed, and beyond legitimate controversy. *Hills v. King*, 66 Wash.2d 738, 741, 404 P.2d 997 (1965); *Singleton v. Jimmerson*, 12 Wash.App. 203,205, 529 P.2d 17 (1974), citing *King*. Where special damages are undisputed, and the injury and its cause is clear, the court has little hesitancy in granting a new trial when the jury does not award these amounts. See *Jimmerson* [*sic*]. We reverse a jury award of damages which is outside the range of substantial evidence in the record. *Washburn v. Beatt Equipment Co.*, 120 Wash.2d 246, 279-80, 849 P.2d 860 (1992).

*Krivanek, supra*, p. 636.

Plaintiffs contend that the *Palmer* case cited above is on its own dispositive of the issues in this present case. The law in *Palmer* is still good

law in Washington, has not been overruled or revised, and is frequently cited by Washington courts on the issues before this court.

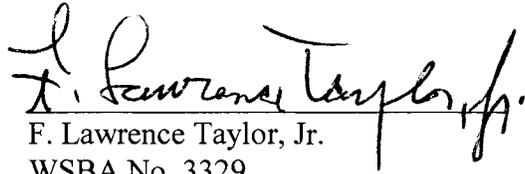
### **Conclusion**

This appeal raises a single and very basic issue. Are the plaintiffs entitled to a new trial limited to damages only? Plaintiffs submit that the answer is a clear and resounding “yes,” based on the facts of their case and the law set forth above in this brief.

The only witnesses who testified at the trial were the three plaintiffs, Dr. Alnoor Bhanji, D.C., the two defendants, and the daughter of defendant Kuhnhausen who was a fact witness to the collision. The only expert or professional testimony came from Dr. Bhanji. The only testimony of the plaintiffs’ injuries came from the plaintiffs. The defendants presented no expert or medical testimony. The testimony as to the medical conditions, treatments and injuries of the plaintiffs was uncontradicted.

Under the law as set forth above, the plaintiffs request this court to order a new trial limited to the amount of damages only.

Respectfully submitted this 14<sup>th</sup> day of September, 2010.



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## **Appendix**

The Appendix consists of some of the Clerk's Papers that were referenced in this Brief of Appellant, and are included within this Appendix solely to make it easier for this Court to examine these within the context of reading the brief.

The Table of Contents contains the name and page number of each document.

APPENDIX "A"

Trial Exhibit Number 5

Medical Bills of Nadezhda Panitkova

# Chiropractic.Wellness & Rehab

34211 Pacific Highway S #1  
Federal Way, WA 98003  
(253)661-6101

## RECEIVED

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2/16/2008

Page: 1

**Patient:** Nadezhda Panitkova  
359 37 PL. SE  
Auburn, WA 98002

**Chart#:** PANNA000  
**Case#:** 3093

**Instructions:**

F. LAWRENCE TAYLOR, PLLC  
TAYLOR LAW FIRM

Complete the patient information portion of your insurance claim form. Attach this bill, signed and dated, and all other bills pertaining to the claim. If you have a deductible policy, hold your claim forms until you have met your deductible. Mail directly to your insurance carrier.

Date	Description	Procedure	Modify	Dx 1	Dx 2	Dx 3	Dx 4	Units	Charge
10/19/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
10/19/2007	NEW PT. COMPRHSV EXAM	99204	25	839.0	839.21	839.20	847.0	1	182.00
10/19/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
10/22/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
10/22/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
10/24/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
10/24/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
10/20/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
10/20/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
10/26/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
10/26/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
10/27/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
10/27/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
10/29/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
10/29/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
10/31/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
10/31/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
11/2/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
11/2/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
11/3/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
11/3/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
11/5/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
11/5/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
11/7/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
11/7/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
11/9/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
11/9/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96

**Provider Information**

Provider Name:	Alnoor Bhanji DC
License:	CH00033649
Commercial PIN:	
SSN or EIN:	912034695

Total Charges:	\$ 1559.48
Total Payments:	\$ 0.00
Total Adjustments:	\$ 0.00
<b>Total Due This Visit:</b>	<b>\$ 1559.48</b>
Total Account Balance:	\$ 3,889.23

Assign and Release: I hereby authorize payment of medical benefits to this physician for the services described above. I also authorize the release of any information necessary to process this claim.

Patient Signature: \_\_\_\_\_

Date: \_\_\_\_\_

00010

# Chiropractic.Wellness & Rehab

34211 Pacific Highway S #1  
Federal Way, WA 98003  
(253)661-6101

**Patient:** Nadezhda Panitkova  
359 37 PL. SE  
Auburn, WA 98002

**Chart #:** PANNA000  
**Case #:** 3093

Instructions:

Complete the patient information portion of your insurance claim form. Attach this bill, signed and dated, and all other bills pertaining to the claim. If you have a deductible policy, hold your claim forms until you have met your deductible. Mail directly to your insurance carrier.

Date	Description	Procedure	Modify	Dx 1	Dx 2	Dx 3	Dx 4	Units	Charge
11/14/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
11/14/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
11/16/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
11/16/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
11/12/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
11/12/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
11/19/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
11/19/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
11/21/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
11/21/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
11/23/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
11/23/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
11/24/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
11/24/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
11/26/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
11/26/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
11/30/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
11/30/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
11/30/2007	EST. PT. EXPNDD EXAM	99213		839.0	839.21	839.20	847.0	1	67.00
12/3/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
12/3/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
12/5/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
12/5/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
12/7/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
12/7/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
12/14/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
12/14/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96

**Provider Information**

Provider Name:	Alnoor Bhanji DC
License:	CH00033649
Commercial PIN:	
SSN or EIN:	912034695

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Total Payments:	\$ 0.00
Total Adjustments:	\$ 0.00
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Patient Signature: \_\_\_\_\_

Date: \_\_\_\_\_

# Chiropractic Wellnes & Rehab

34211 Pacific Highway S #1  
Federal Way, WA 98003  
(253)661-6101

**Patient:** Nadezhda Panitkova  
359 37 PL. SE  
Auburn, WA 98002

**Chart #:** PANNA000  
**Case #:** 3093

**Instructions:**

Complete the patient information portion of your insurance claim form. Attach this bill, signed and dated, and all other bills pertaining to the claim. If you have a deductible policy, hold your claim forms until you have met your deductible. Mail directly to your insurance carrier.

Date	Description	Procedure	Modify	Dx 1	Dx 2	Dx 3	Dx 4	Units	Charge
12/17/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
12/17/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
12/21/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
12/21/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
12/26/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
12/26/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
12/28/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
12/28/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
1/4/2008	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
1/4/2008	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
1/11/2008	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
1/11/2008	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
1/23/2008	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
1/23/2008	EST. PT. EXPNDD EXAM	99213		839.0	839.21	839.20	847.0	1	67.00
1/23/2008	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
2/16/2008	COPIES OF RECORDS	99083		839.0	839.21	839.20	847.0	1	76.55

**Provider Information**

Provider Name: Alnoor Bhanji DC License: CH00033649 Commercial PIN: SSN or EIN: 912034695
--

Total Charges:	\$ 885.27
Total Payments:	\$ 0.00
Total Adjustments:	\$ 0.00
<b>Total Due This Visit:</b>	<b>\$ 885.27</b>
Total Account Balance:	\$ 3,889.23

**Assign and Release:** I hereby authorize payment of medical benefits to this physician for the services described above. I also authorize the release of any information necessary to process this claim.

Patient Signature: \_\_\_\_\_

Date: \_\_\_\_\_

# Chiropractic Wellnes & Rehabi

34211 Pacific Highway S # 1  
Federal Way, WA 98003  
(253)661-6101

**RECEIVED**

2/16/2008  
FEB 20 2008

Page: 1

**Patient:** Nadezhda Panitkova  
359 37 PL SE  
Auburn, WA 98002

**Chart #:** PANNA000  
**Case #:** 1595

**Instructions:**

Complete the patient information portion of your insurance claim form. Attach this bill, signed and dated, and all other bills pertaining to the claim. If you have a deductible policy, hold your claim forms until you have met your deductible. Mail directly to your insurance carrier.

TAYLOR LAW FIRM

Date	Description	Procedure	Modify	Dx 1	Dx 2	Dx 3	Dx 4	Units	Charge
10/22/2007	MASSAGE	97124		728.85	784.0	723.1	847.0	4	125.00
10/26/2007	MASSAGE	97124		728.85	784.0	723.1	847.0	4	125.00
10/29/2007	MASSAGE	97124		728.85	784.0	723.1	847.0	4	125.00
11/2/2007	MASSAGE	97124		728.85	784.0	723.1	847.0	4	125.00
11/5/2007	MASSAGE	97124		728.85	784.0	723.1	847.0	4	125.00
11/16/2007	MASSAGE	97124		728.85	784.0	723.1	847.0	4	125.00
11/9/2007	MASSAGE	97124		728.85	784.0	723.1	847.0	4	125.00
11/12/2007	MASSAGE	97124		728.85	784.0	723.1	847.0	4	125.00
11/19/2007	MASSAGE	97124		728.85	784.0	723.1	847.0	4	125.00
11/23/2007	MASSAGE	97124		728.85	784.0	723.1	847.0	4	125.00
11/26/2007	MASSAGE	97124		728.85	784.0	723.1	847.0	4	125.00
11/30/2007	MASSAGE	97124		728.85	784.0	723.1	847.0	4	125.00
2/3/2007	MASSAGE	97124		728.85	784.0	723.1	847.0	4	125.00
12/14/2007	MASSAGE	97124		728.85	784.0	723.1	847.0	4	125.00
12/21/2007	MASSAGE	97124		728.85	784.0	723.1	847.0	4	125.00
12/28/2007	MASSAGE	97124		728.85	784.0	723.1	847.0	2	62.50
1/11/2008	MASSAGE	97124		728.85	784.0	723.1	847.0	4	125.00
1/4/2008	MASSAGE	97124		728.85	784.0	723.1	847.0	4	125.00

**Provider Information**

Provider Name: Sergey Osadchiy LMP License: MA00018750 Commercial PIN: SSN or EIN:
---

Total Charges:	\$ 2187.50
Total Payments:	\$ 0.00
Total Adjustments:	\$ 0.00
<b>Total Due This Visit:</b>	<b>\$ 2187.50</b>
Total Account Balance:	\$ 2,187.50

**Assign and Release:** I hereby authorize payment of medical benefits to this physician for the services described above. I also authorize the release of any information necessary to process this claim.

Patient Signature: \_\_\_\_\_

Date: \_\_\_\_\_

APPENDIX "B"

Trial Exhibit Number 8

Medical Bills of Nelli Panitkova

Received Time 3:24PM

**Chiropractic.Wellness & Rehab**

34211 Pacific Highway S #1  
Federal Way, WA 98003  
(253)661-6101

Page: 1

4/3/2008

**Patient:** Nelli Panitkova  
359 37 PL. SE  
Auburn, WA 98002

**Chart #:** PANNE000  
**Case #:** 3094

**Instructions:**

Complete the patient information portion of your insurance claim form. Attach this bill, signed and dated, and all other bills pertaining to the claim. If you have a deductible policy, hold your claim forms until you have met your deductible. Mail directly to your insurance carrier.

Date	Description	Procedure	Modify	Dx 1	Dx 2	Dx 3	Dx 4	Units	Charge
10/20/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
10/20/2007	NEW PT. COMPRHSVEXAM	99204	25	839.0	839.21	839.20	847.0	1	182.00
10/20/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
10/22/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
10/22/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
10/27/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
10/27/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
11/3/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
11/3/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
11/12/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
11/12/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
2/16/2008	COPIES OF RECORDS	99083		839.0	839.21	839.20	847.0	1	37.60

**Provider Information**

Provider Name:	AInoor Bhanji DC
License:	CH00033649
Commercial PIN:	
SSN or EIN:	912034695

Total Charges:	\$ 749.40
Total Payments:	\$ 0.00
Total Adjustments:	\$ 0.00
<b>Total Due This Visit:</b>	<b>\$ 749.40</b>
Total Account Charges:	

**Assign and Release:** I hereby authorize payment of medical benefits to this physician for the services described above. I also authorize the release of any information necessary to process this claim.

Patient Signature: \_\_\_\_\_

Date: \_\_\_\_\_



APPENDIX "C"

Trial Exhibit Number 9

Medical Bills of Denis Panitkov

# Chiropractic.Wellness & Rehab

34211 Pacific Highway S #1  
Federal Way, WA 98003  
(253)661-6101

## RECEIVED

FEB 20 2008 2/16/2008

Page: 1

**Patient:** Denis Panitkov  
359 37 PL. SE  
Auburn, WA 98002

**Chart #:** PANDE000  
**Case #:** 3095

Instructions:

Complete the patient information portion of your insurance claim form. Attach this bill, signed and dated, and all other bills pertaining to the claim. If you have a deductible policy, hold your claim forms until you have met your deductible. Mail directly to your insurance carrier.

**F. LAWRENCE TAYLOR, PLLC  
TAYLOR LAW FIRM**

Date	Description	Procedure	Modify	Dx 1	Dx 2	Dx 3	Dx 4	Units	Charge
10/20/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
10/20/2007	NEW PT. COMPRHSV EXAM	99204	25	839.0	839.21	839.20	847.0	1	182.00
10/20/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
10/22/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
10/22/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
10/27/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
10/27/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
11/3/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
11/3/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
11/12/2007	CMT: 3-4 regions	98941		839.0	839.21	839.20	847.0	1	65.00
11/12/2007	myofacial release	97140		839.0	839.21	839.20	847.0	1	40.96
2/16/2008	COPIES OF RECORDS	99083		839.0	839.21	839.20	847.0	1	37.60

**Provider Information**

Provider Name: Alnoor Bhanji DC  
License: CH00033649  
Commercial PIN:  
SSN or EIN: 912034695

Total Charges:	\$ 749.40
Total Payments:	\$ 0.00
Total Adjustments:	\$ 0.00
<b>Total Due This Visit:</b>	<b>\$ 749.40</b>
Total Account Balance:	\$ 749.40

Assign and Release: I hereby authorize payment of medical benefits to this physician for the services described above. I also authorize the release of any information necessary to process this claim.

Patient Signature: \_\_\_\_\_

Date: \_\_\_\_\_

00018

APPENDIX "D"

Clerk's Papers Pages 99-100

Jury Instruction Number 20

INSTRUCTION NO. 20

It is the duty of the court to instruct you as to the measure of damages.

You must first determine the amount of money which will reasonably and fairly compensate the plaintiffs for such damages as you find were proximately caused by the negligence of the defendant.

If you find for the plaintiffs, your verdict should include the following undisputed item:

- \$4000 for the value of plaintiff's damaged car.

In addition, you should consider the following past economic damages:

- The reasonable value of necessary medical care, treatment and services received to the present time.
- The reasonable value of expenses for travel to and from plaintiff's health care providers for examination and treatment. According to the Internal Revenue Service, the mileage rate as of February 1, 2007 was \$0.485 per mile and mileage rate as of January 1, 2008 was \$0.505 cents per mile.

In addition, you should consider the following noneconomic damages elements:

- The nature and extent of the injuries.
- The disability and loss of enjoyment of life experienced.
- The pain and suffering, both mental and physical, already experienced.

The burden of proving damages rests upon the plaintiff. It is for you to determine, based upon the evidence, whether any particular element has been proved by a preponderance of the evidence.

Your award must be based upon evidence and not upon speculation, guess, or conjecture.

The law has not furnished us with any fixed standards by which to measure noneconomic

damages. With reference to these matters you must be governed by your own judgment, by the evidence in the case, and by these instructions.

APPENDIX "E"

Clerk's Papers Pages 74-76

Special Verdict Form

**FILED**  
KING COUNTY, WASHINGTON

JUL 22 2009

SUPERIOR COURT CLERK  
BY JULIE WARFIELD  
DEPUTY

**SUPERIOR COURT, STATE OF WASHINGTON, COUNTY OF KING**

NADEZHDA PANITKOVA, individually,  
NELLI PANITKOVA and DENIS  
PANITKOV, minor children and herein  
represented by their natural parent and legal  
guardian, NADEZHDA, PANITKOVA,

Plaintiffs,

v.

PAVEL PANITKOV, individually, and  
KIM KUHNHAUSEN and "JOHN DOE"  
KUHNHAUSEN, individually and/or the  
marital community composed thereof,

Defendants.

No. 08-2-13006-1 KNT

SPECIAL VERDICT FORM

We, the jury, answer the questions submitted by the court as follows:

**QUESTION 1:** Were any of the defendants negligent? (*Answer "yes" or "no" after the name of each defendant.*)

ANSWER:	YES	NO
Defendant Panitkov:	<u>Yes</u>	_____
Defendant Kuhnhausen:	_____	<u>NO</u>

(*INSTRUCTION: If you answered "no" to Question 1 as to each defendant, sign this verdict form. If you answered "yes" to Question 1 as to any defendant, answer Question 2.*)

**QUESTION 2:** Was such negligence a proximate cause of the injury or damage to the plaintiffs? (Answer "yes" or "no" after the name of each defendant found negligent by you in Question 1.)

ANSWER:	YES	NO
Defendant Panitkov:	<u>yes</u>	_____
Defendant Kuhnhausen:	_____	_____

(INSTRUCTION: If you answered "no" to Question 2 as to all defendants, sign this verdict form. If you answered "yes" to Question 2 as to any defendant, answer Question 3.)

**QUESTION 3:** What do you find to be the plaintiffs' amount of damages?

NADEZHDA PANITKOVA:

Economic Damages: \$4,300.

Non Economic Damages: 0

NELLI PANITKOVA:

Economic Damages: \_\_\_\_\_

Non Economic Damages: \_\_\_\_\_

DENIS PANITKOV:

Economic Damages: \_\_\_\_\_

Non Economic Damages: \_\_\_\_\_

(INSTRUCTION: If you answered Question 3 with any amount of money, answer Question 4. If you found no damages in Question 3, sign this verdict form).

**QUESTION 4:** Answer this question only if you answered "yes" as to both defendant's in Question 2.

Assume that 100% represents the total combined negligence that proximately caused the plaintiff's injury and damage. What percentage of this 100% is attributable to each defendant whose negligence was found by you in Question 2 to have been a proximate cause of the injury and damages to the plaintiffs? Your total must equal 100%.

ANSWER:

Defendant Panitkov: \_\_\_\_\_%

Defendant Kuhnhausen: \_\_\_\_\_%

TOTAL: 100%

(INSTRUCTION: Sign this verdict form and notify the bailiff.)

Date:

7-22-2009

Donald J. Kuhn

Presiding Juror