

## **MD BUSINESS CONSULTANTS LLC**

5743 S. Genoa Court  
Aurora, CO 80015  
Phone 800-619-5438  
www.mdbizcon.com

March 11, 2020

Addicus Finch, J.D.  
531 Mountain Circle  
Denver, CO 80203

Re: Jane Austen

Dear Mr. Finch,

You requested my comments and opinions regarding your client Jane Austen. Specifically you requested my medical opinion regarding headaches Ms. Austen sustained after an auto crash on September 15, 2019. I will outline your client's pertinent medical history, the events in question, consequences of the event and Ms. Austen's ongoing medical problems related to the auto crash on September 15, 2019. I will then answer your specific question if Ms. Austen's headaches starting after the crash are accident-related.

### **Records Reviewed**

Sunshine Adult & Senior Health 2-17-19 to present  
University of Colorado Hospital Emergency Department 9-16-19  
St. Christopher's Central Hospital Clinic (Dr. Spade) 9-18-19 to present  
St. Christopher's Central Hospital 11-9-19 to 11-11-19  
Guardian Urgent Care 10-10-19 to 2-6-20  
Affidavit of Jane Austen 2-1-20  
Diversified Chiropractic and Acupuncture Clinic 1-4-20 to 1-30-20  
Mountain View Spine Clinic 2-8-20 to present  
Pharmacy Records-Walgreen's 9-16-19 to present

### **Brief History of Events**

On September 15, 2019 Ms. Austen was the properly restrained driver of her 2018 Ford Escort. While moving with the right of way Ms. Austen's car was struck head on, being hit on the driver's side front end resulting in Ms. Austen hitting the steering wheel with her forehead before airbags deployed. Ms. Austen's car was totaled. Immediately after the auto crash Ms. Austen thought she was not injured, however, in the short time it took for the police to arrive to investigate the accident, Ms. Austen noticed the onset of a severe frontal headache and mid-line chest pain.

Copyright© 2021 MD Business Consultants-All Rights Reserved. No portion of this publication may be reprinted in any form, or by any means without prior written permission of the copyright owner

Ms. Austen was taken to the University of Colorado Hospital Emergency Department by her sister and brother-in-law. After waiting for approximately five hours to be seen Ms. Austen decided to return home and return to the University of Colorado Hospital Emergency Department the next morning. She was driven to the hospital by an aunt because her frontal headache kept her from being able to drive herself.

On her return to the Emergency Department on September 16, 2019 Ms. Austen was diagnosed as having a primary diagnosis of post-traumatic headache and an additional diagnosis of chest wall contusion. Ms. Austen was instructed to take ibuprofen and to go her primary care doctor if her symptoms persisted.

Ms. Austen reports her chest contusion did heal, however, she continued to have frequent severe frontal headaches. Ms. Austen shortly after her emergency room visit went to her primary care physician, Sam Spade, M.D., complaining of severe headaches starting after the accident. She reported the headaches could last anywhere from a few hours to several hours. The headaches were associated with photophobia and nausea. Ms. Austen was prescribed Tylenol #3, which is acetaminophen with 30 mg of codeine (#30) and then to switch to over-the-counter acetaminophen.

On October 10, 2019 Ms. Austen experienced the onset of another severe headache. She reports being in such pain that she was taken to Guardian Urgent Care and seen by Phillip Marlowe, M.D. She was diagnosed with cephalgia (headache). Ms. Austen was prescribed Fiorinal (a pain reliever with aspirin and Codeine #3). She continued to see Dr. Spade who prescribed other narcotic pain relievers as well. Ms. Austen was then transferred to St. Christopher's Central Hospital for further evaluation on November 3, 2019. While at St. Christopher's Hospital Ms. Austen had a CT of the brain which was normal. She was given medications including IV Toradol (pain reliever) and released to home.

Ms. Austen experienced only a brief period of relief and then returned to Guardian Urgent Care on December 13, 2019. Ms. Austen again saw Dr. Marlowe for her headache and Dr. Marlowe prescribed Dilaudid 2 mg (a narcotic pain reliever) for pain. Dr. Marlowe also recommended that Ms. Austen get follow up care through her primary care physician.

Ms. Austen returned to the care of her primary care physician, Dr. Spade, for follow-up care regarding the post-accident headaches. He diagnosed post-trauma headaches secondary to hitting her head in the auto crash. She has been prescribed a number of different medications to treat her post-trauma headaches. Ms. Austen also tried a course of chiropractic care in January 2020 which was not helpful.

By February 8, 2020 Ms. Austen was referred to the Mountain View Spine Clinic for evaluation of her headaches and seen by Sherlock Holmes, M.D. Ms. Austen was evaluated and diagnosed with Post-Concussive Headaches by Dr. Holmes.

## **Record Review-Significant Verbatim Notes**

### 9-19-19-University of Colorado Emergency Department

42 y/o female co headache that she rates an 8/10 and mild left sided cp after MVA yesterday.

Diagnosis: Primary: headache Additional: chest wall contusion

### 10-10-19- Guardian Urgent Care

Discussion: Risk of complications and morbidity if untreated are potentially high. Differential diagnosis was considered for post-concussive headache...migraine headache.

### 12-13-19-Guardian Urgent Care

The patient continues to have headaches that she is getting rather frequently. She does frequently go to the emergency department for this pain.

The patient does continue to have what appear to be cervicogenic headaches that progress to a migrainous quality.

To a reasonable degree of medical probability, the accident dated September 15, 2019 was a substantial contributing factor in the need for the care provided to this patient to date. I apportion 100% of the care this patient has received since the time of this accident to be related to the accident of 9-15-19. There is no preexisting history of significant injury or treatment.

To a reasonable degree of medical probability this patient will require the following diagnostic and/or therapeutic interventions in order to receive a reasonable standard of care for injuries related to this accident.

Medical Doctor Evaluations

Trigger Point Injections

Specialty Consultation and Treatment

### 1-8-20-Dr. Spade

Assessment: Headache (784.0)

### 2-8-20-Dr. Holmes

The pain in her head is limiting. These headaches have been getting progressively worse. They are limiting her activities. They are predominantly frontal/bi-temporal and do coincide with a potential post-concussive type headache.

## **Ongoing Medical Problems**

Currently, Ms. Austen continues to experience severe frontal headaches 2-3 times per week. She describes severe sharp pain starting in her forehead and radiating to her temples bilaterally. On a pain rating scale with 0 being no pain and 10 being pain severe enough to lose consciousness Ms. Austen states these headaches rate on average as 7-8/10. Along with pain, Ms. Austen also describes photophobia and nausea associated with the headaches. She reports because of the

Copyright© 2021 MD Business Consultants-All Rights Reserved. No portion of this publication may be reprinted in any form, or by any means without prior written permission of the copyright owner

severity and frequency of these headaches her ability to carry on the tasks of everyday living have been significantly disrupted. She reports difficulty being able to maintain her work schedule and other kinds of normal life activities such as household chores, relationships and friendships, recreational activities, etc.

Ms. Austen states along with medication, currently Nurtec 75mg, the only other effective treatment to relieve the headaches is to lie down and try to sleep. As noted, these headaches can last for several hours. Ms. Austen and her treating physicians have not been able to pinpoint any specific triggers, events or circumstances that set off her headaches as her headaches are not controlled by medications as of yet.

As noted above, Ms. Austen reports that when she gets a severe headache she cannot function normally and needs to lie down in an effort to control her pain. She reports having to call her place of employment and inform them that she will be late for her shift because of headache pain. She states she will often miss work hours on the days she has a severe headache.

Since the time of the auto crash Ms. Austen reports she has periodically needed to return to an urgent care center or an emergency department for the treatment of acute headache pain as well as continuing to treat with her primary care doctor.

## **Discussion**

You specifically asked me to answer the question if these headaches are directly related to her September 15, 2015 auto crash.

It should be noted that Ms. Austen has a documented history of headaches that accompany her menstrual period. She states these headaches started in her twenties and have always correlated with the onset of her period. She describes these headaches as lasting 2-3 hours and rates the pain as 1/10. She describes these headaches as being diffuse headache pain without associated symptoms such as dizziness, nausea or photophobia. Ms. Austen reports these headaches as mild. She never missed work or disrupted plans due to the menstrual headaches. In fact, Ms. Austen has never required any kind of headache treatment from her gynecologist although Dr. Marple mentions the headaches in her office progress notes. In a review of Ms. Austen's gynecologic medical record generated by Jane Marple, D.O. there is no documented record of headache treatment of any kind. I also had the opportunity to discuss this issue with Dr. Marple for clarification, Dr. Marple reports she has never treated Ms. Austen for any kind of headache problem although she is aware of the headaches with menses. Dr. Marple has treated Ms. Austen with analgesic medication including narcotic analgesics on occasion, however, only for other gynecologic related issues.

A careful review of the past medical history provided in the medical records was done. There is only one reference to Dr. Spade ever treating Ms. Austen for headaches prior to Ms. Austen's 9-

15-2019 auto accident. Dr. Spade's records show no evidence of headaches being listed as a significant or ongoing problem or identified in the problem list prior to the 9-15-2019 auto crash.

As well, I reviewed Ms. Austen's prescription history from Walgreen's pharmacy starting January 12, 2015 and ending September 15, 2019 which is the date of the accident. Ms. Austen received prescriptions from three physicians, Jane Marple, D.O. Nancy Drew, D.P.M. and Samuel Spade, M.D.

Dr. Marple is an Ob/Gyn specialist who prescribed a number of medications related to Ms. Austen's ob/gyn needs. Specifically, Dr. Marple prescribed Lexapro, Ibuprofen, Azithromycin, Nuvaring, Diazepam, Camila, Zoloft, Plan B, Citracal Prenatal, Zofran, Depo-Provera, Nitrofurantoin and Cipro. None of these medications are used in the treatment of headaches. All of these medications were prescribed between 11-29-14 and 9-15-19 (the date of the auto accident).

Dr. Drew treated Ms. Austen for a foot injury and wrote prescriptions primarily for pain and infection related to Ms. Austen's foot condition. Specifically Dr. Drew prescribed Vicodin, Silver Sulfadizine, Diazepam and Ketorolac. I talked to Dr. Drew who told me that the Vicodin pain medication she prescribed was for foot pain due to Ms. Austen's foot injury. These medications were prescribed between 5-24-16 and 9-15-19 (the date of the auto accident).

Dr. Spade is Ms. Austen primary care doctor and wrote prescriptions to treat a variety of medical conditions such as flu, bronchitis and cough. Dr. Spade specifically prescribed Promethazine, Rhinocort, Levaquin and Cipro. None of these medications are used in the treatment of headaches. These medications were prescribed between 1-12-10 and 9-15-19 (the date of the auto accident).

According to the Walgreen pharmacy records after the September 15, 2019 auto crash and up to the date of this report Ms. Austen has been seen by Dr. Spade, Dr. Marple and some physicians Ms. Austen saw at urgent care and emergency departments. These doctors did specifically treat Ms. Austen for headache pain related to the auto crash.

Therefore it is my opinion to a reasonable degree of medical probability that Ms. Austen suffers from post-concussive headaches that are directly related to hitting her forehead in the September 15, 2019 auto crash. Post-Concussive Headaches (PCH) are headaches that a person may experience for weeks, months, or occasionally years after a concussion as reported in the medical literature. PCH is the most commonly reported symptom of Mild Traumatic Brain Injury (mTBI). There may or may not be a loss of consciousness with the blow to the head. With this kind of headache there is a contusion (bruise) to the brain that results in symptoms primarily due to shearing of brain cells. The symptoms of PCH will vary with individual patients. The variance in symptoms results from the area of the brain that is bruised, the mechanism of action of the blow to the head, individual brain chemistry reactions to the contusion as well as other factors.

It is my further medical opinion to a reasonable degree of medical probability that the headaches

Copyright© 2021 MD Business Consultants-All Rights Reserved. No portion of this publication may be reprinted in any form, or by any means without prior written permission of the copyright owner

Ms. Austen describes are post-concussive and not true migraine. Although Ms. Austen does get nausea and photophobia with the headaches, she has no previous history of migraine headaches and there is a direct temporal relationship to the auto crash along with no other discernable cause for the onset of headaches. Patients with this kind of traumatic brain contusion often develop Post-Concussion Syndrome. Headaches are almost always one of the prominent symptoms. In some patients, as with Ms. Austen, the only symptom of long duration is headache. With this kind of headache the only form of treatment is to treat the headache symptoms. Usually most patients will recover from PCH in a relatively brief period of time. It is well understood and described in the medical literature, however, that in a certain percentage of PCH patients the symptoms can last weeks, months or even years as is the case for Ms. Austen.

In a 2016 review article in *Current Treatment Options in Neurology* the authors, Barry Willer, Ph.D. and John J. Leddy, M.D. state “Recent research on Grade 1 concussions (the mildest form) indicates that concussed individuals, even at this seemingly minor level, may experience impaired memory and renewed symptoms within 36 hours of the injury. Renewed symptoms include headache, nausea, disturbed sleep and balance problems.” The authors go on to state “Concussion is the result of rapid deceleration of the brain within the skull that imparts shearing or torsional forces to neural tissue followed by metabolic and mechanical changes.” Given the nature regarding how Ms. Austen hit her forehead on the steering wheel, both of these findings in the study apply to Ms. Austen in my medical opinion. Obviously, there is a direct temporal relationship between this auto crash and the onset and nature of Ms. Austen’s headaches.

In this same review article the authors state “The most common symptom for which medication is indicated is post-concussion headache. As many as one third of patients report increased headaches 1 year after head trauma.”

It should also be noted that Ms. Austen took no medications for headaches before the auto crash. Since the accident her medical record indicates Ms. Austen has been on a number of medications for post-concussive headaches including some narcotic pain relievers.

Finally, it is my opinion to a reasonable degree of medical probability that the headaches Ms. Austen has experienced since the September 15, 2019 auto crash are different in form, nature, symptoms and degree of loss of function than the menstrual headaches Ms. Austen has experienced in the past.

If you have further questions please contact me.

Sincerely,

Armin Feldman, M.D.  
MD Consulting Services LLC

Copyright© 2021 MD Business Consultants-All Rights Reserved. No portion of this publication may be reprinted in any form, or by any means without prior written permission of the copyright owner