

## **YOUR MEDICAL CARE AND YOUR CASE** **REASONABLE COST OF REASONABLY NECESSARY TREATMENT**

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You are in your car at a stop light when Larry Leadfoot runs into you with his truck. At the emergency room, you are diagnosed with a sprain/strain of the neck and low back. You see your family doctor the next day. He prescribes muscle relaxers, pain pills, and says to come back in two weeks if you are not feeling better.

Your next door neighbor tells you that what you really need is three days at a spa. The spa she uses sells package deals, including room, board, mud baths and body scrubs for \$3,500.00.

Your co-worker tells you not to take the medications. They are very bad for your chakras. What you really need is aroma therapy. She just so happens to have a home sales business for these products and can supply you with a complete kit containing a week supply of aroma products for the amazingly low price of \$399.99.

You have decided to sue Leadfoot and wonder if you should hold off on following any of this advice until you have spoken with an attorney.

Attorneys practice law, not medicine. Your medical care is a personal decision which should be made by you and your doctor. Whether you take medications, seek chiropractic care, or undergo physical therapy, or aroma therapy acupuncture, or mud baths is your decision. However, your medical choices have a significant effect on the types of damages you may recover at trial.

Leadfoot ran into with his car, but under the law, he is only liable for the reasonable cost of your reasonably necessary medical care. The jury instruction is CACI No. 3903A, and it reads:

To recover damages for past medical expenses, plaintiff must prove the reasonable cost of reasonably necessary medical care that he has received.

### **1. Reasonable Cost**

No matter how negligent Leadfoot was at the time of the collision, if you want to be reimbursed for your medical care, you should make sure the price you are paying for the care is reasonable. You opted for the spa and used your Visa to pay \$3,500.00.

Assuming you are able to prove at trial that a spa stay was reasonably necessary, you still have the burden of proving that the spa you chose was reasonably priced. If it turns out that the average cost of spas providing identical mud baths and body scrubs is only \$200.00, then you will probably not be able to meet your burden of proving you paid a reasonable cost. The jury will award you only \$200.00 to compensate you for your spa visit even though you actually paid \$3,500.00.

## 2. Reasonably Necessary Medical Care

You have decided that your co-worker is correct. You swear off medication and purchase the aroma therapy kit for \$399.99, as well as six months worth of aroma products for another \$600.00. Now you have spent the last six months inhaling the scent of Luscious Lavender No 8. You feel wonderful and want to recover the cost of this treatment from Leadfoot, but first you have to prove to a jury that, more probably than not, the treatment plan you chose was reasonably necessary.

As a matter of law, the jury is not permitted to award you the cost of your aroma therapy treatment unless a qualified health care professional testifies that, to a reasonable degree of medical probability, the treatment option you chose was reasonably necessary. Unless you, yourself, are a qualified health care professional, you will not be permitted to give your own opinion on the subject at trial, no matter how much you benefitted from the treatment.

Unfortunately, you have not been able to find a single medical doctor, chiropractor, nurse, or other health care professional willing to say in a court of law that aroma therapy is a reasonable treatment for muscle sprains and strains. Without a medical professional to support your health care decisions at time of trial, you will not be permitted to recover any of the cost of the treatment.

These days, alternative medicine and homeopathic remedies enjoy wide spread use. More jurors than ever opt for this type of care or know people who prefer it to standard western medicine. However, these jurors will still be precluded from reimbursing you the cost of this treatment without an appropriate health care professional willing to support your medical choice at trial.

Maybe you spoke to your doctor about the aroma therapy and asked if you should try it. He said, "sure, it certainly couldn't hurt." You asked whether it would aid in the healing of your injuries. "It's possible," he says, "anything is possible."

Opinions like these are not going to get you reimbursed for your medical treatment at trial. It is not the same as saying that, to a medical degree of probability, the treatment you chose was reasonably necessary to treat muscle sprains and strains. Moreover, regardless of what your doctor told you in his office, the likelihood of him being willing to speak in favor of aroma therapy at time of trial is practically non-existent. There are not many qualified health care professionals who are going to testify in favor of treatments that have not backed up by rigorous scientific testing and scientifically proven results.

If you intend Leadfoot to be held liable for your medical expenses, you need to keep these points in mind when making your medical decisions. As your attorney, we want the best outcome for you medically and financially. Our hope is that you will receive the best possible medical care available to treat the injuries you sustained and that at the conclusion of your case you will be fully reimbursed for all of your damages.