January 8, 2025

***Sent Via Email: VIA\_TYPE\_OPINS***

OPINS

Attn: CLAIM\_RESPONSIBLE\_RECEIVER

Claims Department

**Re: TIME SENSITIVE POLICY LIMIT SETTLEMENT DEMAND OFFER; EXPIRES AT 5:00 P.M. ON SETTLEMENT\_EXP\_DATE**

**OUR CLIENT : CLIENT\_NAME\_ALL\_CAP**

**YOUR INSURED : INSURED\_NAME\_ALL\_CAP**

**YOUR CLAIM NO. : CLAIM\_NUMBER\_OPINS**

**DATE OF LOSS : DATE\_OF\_LOSS**

Dear CLAIM\_RESPONSIBLE\_RECEIVER & All OPINS Decision Makers:

Kindly consider this correspondence as my client, CLIENT\_NAME\_EACH\_CAP’s bodily injury demand for a motor vehicle collision that occurred on DATE\_OF\_LOSS\_FORMATTED, with your insured. We forward this information in an attempt to settle the matter without need for litigation. Accordingly, the information furnished is protected from disclosure pursuant to *California Evidence* Code §§ 1152, 1154, as well as any other applicable privileges. Attached please find attachments with my client’s medical reports, medical billing statements, and property damage photos of damage to my client’s vehicle, which reflect the injuries and damages HE\_SHE\_CLIENT sustained. These documents are submitted as follow:

**MEDICAL PROVIDER: AMOUNT:**

**Total Current Medical Specials $9,063.36 (*Approx*.)[[1]](#footnote-1)**

**Diagnosis**

**Procedures**

**Future**

If MR\_MRS\_CLIENT\_LAST\_NAME experiences further flare-ups of these residuals’ injuries with no new injury, HE\_SHE\_CLIENT will require to have the availability of further medical care immediately available to HER\_HIM\_CLIENT. If HER\_HIS\_CLIENT physicians are unable to control HER\_HIS\_CLIENT elevated pain levels with chiropractic care, then more aggressive allopathic care should be afforded to HER\_HIM\_CLIENT.

Ultimately, MR\_MRS\_CLIENT\_LAST\_NAME will most likely require a series of epidural steroid injections. These injections are usually performed at a surgical center facility in a series of three and can cost between $10,000.00 and $17,000.00 each per injection. This fee typically includes the surgeon, medication, anesthesiology, outpatient surgical center fees, fluoroscopic guidance etc.

**Liability**

Liability on this matter is clear. Driver INSURED\_NAME\_EACH\_CAP is the sole cause of the DATE\_OF\_LOSS\_FORMATTED, collision in that HE\_SHE\_INSURED violated CALIFORNIA\_CVC\_TEXT The collision of the vehicles caused by driver INSURED\_NAME\_EACH\_CAP resulted in injuries and damages to my client, CLIENT\_NAME\_EACH\_CAP.

**Nevertheless, should this matter proceed to litigation and trial, based on the foregoing, including the testimony from expert witnesses, a reasonable estimate of MR\_MRS\_CLIENT\_NAME\_EACH\_CAP’s provable economic and non-economic damages at trial is as follows:**

**Past Medical Expenses : $9,063.36 (*Approx.*)[[2]](#footnote-2)**

**Future Medical Expenses : $150,000.00**

**Past Pain & Suffering/Emotional Distress : $250,000.00**

**Future Pain & Suffering/Emotional Distress : $250,000.00**

**TOTAL : $659,063.36**

**SETTLEMENT DEMAND OFFER FOR THE TENDER OF THE POLICY LIMITS**

**MAINTAINED BY YOUR INSURED FOR THIS ACCIDENT.**

The general and special damages suffered by MR\_MRS\_CLIENT\_LAST\_NAME, as detailed above, are substantially in excess of your insured’s policy limit amount, and we believe that if the case goes to trial, HE\_SHE\_CLIENT will undoubtedly recover far more than $1,000,000.00.

As you are well aware, insurers such as your company owe an ***affirmative duty* *to accept a settlement*** *demand* within policy limits when there is a substantial likelihood of a judgment in excess of those limits. *Crisci* v. *Security Insurance Company* (1967) 66 Cal.2d 425; *Garner* v. *American Mutual Liability Insurance Company* (1973) 31 Cal. App.3d 843,847-848 [as to the “crucial issue” of a liability insurer's duty to accept reasonable settlement offers within policy limits, the duty to consider and weigh all of the facts bearing upon the advisability of a settlement in the interest of the insured *is upon the insurance carrier* as well as the duty to “consider, *accept* or make a reasonable settlement offer” (emphasis added)].

Moreover, the implied covenant imposes upon the insurer the duty to communicate the results of any *investigation* indicating liability in excess of policy limits to the insured, *Davy* v. *Public National Insurance Company* (1960) 181 Cal. App.2d 387, 396, as well as the duty to inform its insured of ***all consequences, particularly* *financial consequences which could occur regarding a failure to settle within policy limits.*** *Transit* *Casualty Company* v. *Spink Corporation* (1979) 94 Cal.App.3d 124, 137, disapproved on other grounds in *Commercial Union Insurance Company* v. *Safeway Stores* (1980) 26 Cal.3d 912,921.

Where an insurer unreasonably fails to protect it’s insured from a compensatory judgment in excess of that insured's policy limits by failing to accept an offer of settlement within policy limits, the insurer is responsible for the ***entirety of the excess judgment****.* More than thirty years ago, the Supreme Court explained why an insurance carrier is responsible for the entirety of excess judgments:

“As we have seen, the duty of an insurer to consider the insured's interest in settlement offers within the policy limits arises from an implied covenant in the contract, and ordinarily contract duties are strictly enforced and not subject to a standard of reasonableness. Obviously, it will always be in the insured's interest to settle within the policy limits when there is any danger, however slight, of a judgment in excess of those limits. Accordingly the rejection of a settlement within the limits where there is any danger of a judgment in excess of the limits can be justified, if at all, only on the basis of the interests of the insurer, and, in light of the common knowledge that settlement is one of the usual methods by which an insured receives protection under a liability policy, it may not be unreasonable for an insured who purchases a policy with limits to believe that a sum of money equal to the limits is available and will be used so as to avoid liability on HER\_HIS\_INSURED part with regard to any covered accident. I view of such expectation an insurer should not be permitted to further its own interests by rejecting opportunities to settle within the policy limits unless it is also willing to absorb losses which may result from its failure to settle.

\* \* \* \*

Finally, and most importantly, there is more than a small amount of elementary justice in a rule that would require that, in this situation where the insurer's and insured's interests necessarily conflict, the insurer, which may reap the benefits of its determination not to settle, should also suffer the detriments of its decision.” *Crisci,* supra, 66 Ca1.2d at 430-431.

*Accord: Coe* v. *Farmers Insurance Exchange*(1977) 66 Ca1.3d 981 [**since the insurer reserves exclusive control over litigation and settlement,** it is liable for the entire amount of the judgment against the insured including any portion in excess of policy limits, if in the exercise of such control it has failed to protect its insured from a judgment in excess of policy limits by refusing an offer of settlement within policy limits.]

The previously referred to and enclosed attachments to this letter provide you with sufficient documentation to reasonably evaluate this claim. It is evident that your insured is civilly culpable for my client’s significant damages, of whatever nature, and your insured’s policy must be used to compensate my client’s losses.

A complete description of the effect which MR\_MRS\_CLIENT\_LAST\_NAME’s injuries have had exceeds the scope of this letter. Suffice it to say that HE\_SHE\_CLIENT would make an extremely sympathetic witness and HER\_HIS\_CLIENT story can easily be expected to move a jury to return a significant award.

As stated at the outset, I am therefore taking this opportunity to present my client’s settlement demand herein in a good faith effort to settle these claims without having compounded more expenses. There is little doubt that a jury of our client’s peers would appreciate the consternation and frustration associated with the facts of this sudden and shocking incident and the difficulties MR\_MRS\_CLIENT\_LAST\_NAME experienced as a result of HER\_HIS\_CLIENT injuries.

Our client’s damages have been sizable, rendering said amount palatable for all opinion that our client’s personal injury damages represent a conservative, fair, and equitable evaluation.

**AS SUCH, OUR CLIENT HEREIN OFFERS TO SETTLE HER\_HIS\_CLIENT\_CAP CLAIM FOR THE TENDER OF THE BODILY INJURY POLICY LIMITS MAINTAINED BY YOUR INSURED REGARDING THE SUBJECT ACCIDENT. ADDITIONALLY, AS AN EXPRESS CONDITION OF ACCEPTANCE, A CERTIFIED DECLARATION PAGE AND A STATEMENT UNDER OATH THAT ALL POLICIES HAVE BEEN TENDERED MUST ACCOMPANY THE ACCEPTANCE. THIS OFFER SHALL EXPIRE AT 5:00 P.M. ON SETTLEMENT\_EXP\_DATE.**

**IN ORDER TO ACCEPT THIS OFFER, INSURANCE\_NAME\_CAP\_OPINS MUST STRICTLY DO ALL OF THE FOLLOWING ON OR BEFORE 5:00 P.M. ON SETTLEMENT\_EXP\_DATE:**

1. **ACCEPTANCE MUST BE IN WRITING, AND EITHER FAXED TO (424) 429-2432 OR EMAILED TO LILLIAN@SEDLAWGROUP.COM, BY NO LATER THAN 5:00 P.M. ON SETTLEMENT\_EXP\_DATE;**
2. **SEND A COPY OF A STANDARD INSURANCE\_NAME\_CAP\_OPINS RELEASE FOR CLIENT\_NAME\_ALL\_CAP TO SIGN, ADDRESSED TO THE UNDERSIGNED’S ATTENTION BEFORE THE OFFER EXPIRES;**
3. **COUNSEL FOR MR\_OR\_MRS\_INSURED\_NAME\_ALL\_CAP IS NOT A PARTY TO THIS ACTION. DO NOT INCLUDE ANY TERMS IN THE GENERAL RELEASE THAT PURPORTS TO IMPOSE A DUTY OR AN OBLIGATION ON COUNSEL TO DEFEND AND/OR INDEMNIFY YOUR INSURED, MR\_OR\_MRS\_INSURED\_NAME\_ALL\_CAP, OR ANYONE ELSE FOR THAT MATTER.  INCLUSION OF ANY SUCH TERM IN THE GENERAL RELEASE WILL CONSTITUTE A REJECTION OF THIS OFFER;**
4. **PROVIDE A CERTIFIED COPY OF YOUR INSURED’S DECLARATION PAGE SHOWING THE POLICY LIMITS;**
5. **ISSUE PAYMENT WITHIN ONE (1) WEEK OF YOUR RECEIPT OF THE SIGNED RELEASE; AND**
6. **THE SETTLEMENT DRAFT CHECK MUST BE MADE PAYABLE AS FOLLOWS, “SEDAGHAT LAW GROUP CLIENT TRUST ACCOUNT FBO CLIENT\_NAME\_ALL\_CAP”**

**AGAIN, TO BE CLEAR, YOUR ACCEPTANCE OF THE AFOREMENTIONED SETTLEMENT OFFER MUST BE IN WRITING, AND MUST BE COMMUNICATED TO OUR OFFICE VIA FACSIMILE TO: (424) 429-2432 OR EMAIL TO LILLIAN@SEDLAWGROUP.COM, ON OR BEFORE 5:00 P.M. ON SETTLEMENT\_EXP\_DATE.**

**I have enclosed herewith copies of all known records, documentation and information that you will need for evaluating each of my clients claims herein. The damages sustained by each of our clients far exceed the full aggregate policy carried by your insured. We therefore believe that you are in a position to act promptly upon this demand and tender the full aggregate policy limits carried by your insured.**

For your reference and file, and to expedite the issuance of any and all drafts, a copy of our firm’s W-9 form is attached and enclosed with this correspondence herein and marked as **Exhibit “4”**. (change exhibit number if necessary)

**THE AFOREMENTIONED OFFER TO SETTLE OUR CLIENT’S BODILY INJURY CLAIM FOR THE POLICY LIMITS MAINTAINED BY YOUR INSURED REGARDING THE SUBJECT ACCIDENT IS A CLEAR AND UNEQUIVOCAL OPPORTUNITY TO GLOBALLY SETTLE THIS CASE AND PROTECT YOUR INSURED FROM THE CONSEQUENCES OF A VERDICT AND JUDGMENT IN EXCESS OF THE LIMITS OF THE INSURANCE POLICIES.**

**Please be advised that in the event you refuse to offer our client your insured’s full policy limit for consideration, and our client is forced to litigate, due to the increased fees associates with litigation, as well as the enormous costs involved, our client has instructed this office not to accept your insured’s policy limits at that time and will pursue your insured for a verdict in excess of HER\_HIS\_INSURED policy limits, therefore, our above offer to consider settlement is valid for the purpose of this settlement demand only.**

We are certain you are aware that if a judgment in excess of the policy limits is entered against your insured in a lawsuit, when you have had the opportunity to settle this matter within the policy limits, your company may be held responsible for the difference (*Silberg v. California Life Ins. Co.* (1974) 11 C3d 452, 113 CR 711).

Again, this offer to settle our client’s claims for the **POLICY LIMITS** maintained by your insured regarding the subject accident shall remain open for acceptance until **5:00 P.M. ON SETTLEMENT\_EXP\_DATE.**

After that time, this offer will be withdrawn, and we will be forced to serve your insured with a lawsuit. Please review the enclosed information and contact our office promptly to discuss a mutually satisfactory resolution of this claim.

Taking into consideration the strong evidence of liability in this case, and the substantial injuries suffered by my client, we believe MR\_MRS\_CLIENT\_LAST\_NAME will recover at least the aforementioned amount if this case goes to trial. Juries are receptive to claims for general damages when CLIENT\_SEX HER\_HIS\_CLIENT means of livelihood and the ability to enjoy recreational and familial activities because of physical injury.

Here, if settlement discussions prove unsuccessful, we anticipate that a reasonable jury, in our opinion, would have little difficulty in awarding MR\_MRS\_CLIENT\_LAST\_NAME general damages that are three to six times HER\_HIS\_CLIENT special damages and possibly more. As you are well aware, personal injuries similar to my clients have been settled, and juries have awarded verdicts far in excess of our client’s settlement demand, especially in light of MR\_MRS\_CLIENT\_LAST\_NAME’s injuries. We anticipate your evaluation of our client’s settlement demand in light of this factor.

Based on the foregoing facts, we respectfully request that OPINS consider its initial response so as to represent an offer that reasonably puts our client in the position, HE\_SHE\_CLIENT\_PAGE7 in before this loss, which is nothing less than the tender of your insured’s policy limits. We trust that OPINS will honor its fiduciary duty to its insured and proffer the policy limits for the injuries your insured negligently caused our client.

**MOREOVER, OUT OF AN ABUNDANCE OF CAUTION, I REMIND YOU THAT YOU HAVE A DUTY TO FORWARD A COPY OF THIS LETTER TO YOUR INSURED.**

As I’m sure you’re well aware, an insurer has a duty to communicate this demand to your insured and keep your insured informed about the status of settlement negotiations. California case authority is clear that the failure of an insurer to communicate settlement offers to their insured is in and of itself actionable bad faith.

Where the insurer knows there is a risk that the injured party may obtain a verdict against its insured for more than policy limits, it must keep the insured informed of settlement demands from the third party:

“The company, having the right to select counsel to defend the insured, had the duty to communicate to [the insured] the results of any investigation indicating liability in excess of policy limits, and any offers of settlement which were made so that HE\_SHE\_CLIENT might take proper steps to protect his own interest.”

*Martin v. Hartford Acc. & Indem. Co.* (1964 228 Cal. App. 2d 178, 184; *see also,* *Betts v. Allstate Ins. Co.* (1984) 154 Cal. App. 3d 688, 703.

This duty to communicate the offer has been deemed particularly important when it is a demand within the policy limits. *Anguiano v. Allstate Ins, Co*. 209 F. 3d at 1 169. Additionally, “The insured who is kept informed may have further information to give to the carrier; HE\_SHE\_CLIENT may use powers of persuasion upon the carrier to increase its offer; HE\_SHE\_CLIENT may engage counsel; HE\_SHE\_CLIENT may have other courses of action open to HER\_HIM\_CLIENT.” *Martin v. Hartford Acc. & Indem. Co.,* 228 Cal .App. 2d at 184. Moreover, insurers have a duty to communicate all demands in excess of policy limits. *Merritt v. Reserve Ins. Co,* (1913) 34 Cal. App. 3d 858, 875.

It is insufficient for you to merely inform your insureds of the sum of the demand. You must actually communicate the full content of this offer to ensure: (1) Your insureds are familiar with the nature of their exposure; (2) Your insureds can fairly evaluate whether or not they wish to offer personal assets, if necessary, to ensure that the fully policy limits are paid on the off-chance that INSURANCE\_INIT\_OPINS fails to tender its policy limits; and (3) Your insureds can evaluate whether they wish to retain private counsel (as they should) to communicate to OPINS the importance of tendering its policy limits so that their personal assets are not exposed to an excess judgment.

**Therefore, request is separately hereby made to immediately direct and forward copies of this herein Time Sensitive Policy Limit Settlement Demand Offer, and all accompanying exhibits and documents, to the attention of: (1) Any and all OPINS decision makers; and (2) Your insured, MR\_MRS\_INSURED\_NAME\_EACH\_CAP; and (3) Your insured’s private counsel and/or attorneys.**

**Additionally, a further separate request is hereby made that OPINS provide this office with the contact information for your insured’s private counsel or attorneys.**

**THIS IS AN OFFER FOR A COMPLETE RELEASE FROM OUR CLIENT\_NAME\_ALL\_CAP, FOR THE LIABILITY OF YOUR INSURED FROM ALL PRESENT AND FUTURE LIABILITY RESULTING FROM THIS SUBJECT INCIDENT.**

As previously mentioned, we hope that this matter can resolve without the necessity of expensive and protracted litigation. If you consider this settlement offer carefully, you will realize that this offer is not only fair, but equitable for all parties involved.

Nevertheless, let us assure you that if your intention is to make paltry settlement offers despite all the foregoing evidence, expecting that we will simply “go away,” this will not happen. The undersigned attorney has no problem with pursuing cases all the way through jury trial, for as long as it takes to achieve full, fair, and just recovery for her clients, and has had no problems doing so for many years now.

Plainly put, the undersigned has no intention of going away for an insulting settlement amount, and still believes the title of “attorney” means something: being willing to fight through the entire process to get the result to which her client is justly entitled. This firm does not do a “volume” practice; we do not amass hundreds of cases, and seek quick turnovers, dropping cases that seem like they will be “long” or “difficult.” Your offers should be made accordingly.

The liability damages are now known to you. I have enclosed herewith copies of all known records, documentation, and information that you will need for evaluating this claim. The damages sustained by our client far exceed the policy carried by your insured. We therefore believe that you are able to act promptly upon this demand and tender the full policy limits carried by your insured.

While this correspondence is subject to *Evidence Code* Section 1152, nothing contained herein shall be deemed in any manner to be and admission by, or full explication of any facts or a waiver of our client(s)’ rights or remedies which may be or become available as a result of actions or omissions with respect to the subject matter stated herein or otherwise, all of which rights and remedies, at law, equity and/or otherwise, are specifically hereby reserved. Moreover, nothing in this letter shall be construed as any kind of threat by anyone as we are merely asserting what we believe to be our civil legal remedies.

Lastly, please be advised that this letter shall be deemed admissible as evidence of notice in the file of your insured of OPINS’s potential exposure from this loss in a prospective bad faith action against OPINS, if necessary.

In the spirit of cooperation and in further attempts to resolve these issues informally and amicably, please feel free contact the undersigned upon receipt of this letter so that we may discuss the issues contained herein on or before the expiration of this settlement demand.

Nevertheless, please be advised that our demand to settle the above referenced claim will expire after **5:00 P.M. ON SETTLEMENT\_EXP\_DATE**.

Thank you for your anticipated courtesy and cooperation in this regard.

I look forward to receiving your response without delay.

Very Truly Yours,

**SEDAGHAT LAW GROUPText, letter

Description automatically generated**

Managing Partner

LS./ls.

Enclosures

cc: Client (*Via Email Only*)

1. Approximate, not final. Final amount of medical bills and expenses are to be determined and updated pending receipt of final medical billing statements from all referenced medical providers. [↑](#footnote-ref-1)
2. Approximate, not final. Final amount of medical bills and expenses are to be determined and updated pending receipt of final medical billing statements from all referenced medical providers. [↑](#footnote-ref-2)