

Brooks & Crooks
Attorneys At Law

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Robert Anderson
Best Value Insurance Company
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Re: Our Client: Mary Collins and James Collins

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injured in an accident caused by your insured, Peterson Transport when they were struck by a truck driven by Jimmy Peterson. The accident occurred near the junction between 190 and 5 just outside Buffalo. Mary was driving and James the passenger at the time. Mary was carefully attempting to merge from I 5 to I 190 when suddenly the truck driven by Peterson Honda Accord struck them from behind and pushed them into the retaining wall on the left side of the highway. Both vehicles sustained significant damage and had to be towed from the scene. Subsequent to the accident the Collins vehicle was declared a total loss.

A witness, Terry Thompson who was behind the Collins vehicle and also attempting to merge from I 5 to I 190 confirmed that the Collins vehicle was under control, clearly visible, appeared to be driving at the speed limit and did not contribute to the accident. Mr. Peterson was cited for failure to maintain a safe speed and failure to maintain a safe distance. Recently we obtained video from a traffic control camera at the junction. The video clearly shows the accident and reveals that Peterson was both on the cell-phone and looking at a screen in the truck cab as he approached the junction. Peterson clearly had time to adjust his speed to allow a safe merger but failed to give Mrs. Collins sufficient room to merge. Clearly your insured was at fault and we will be amending our Complaint to assert that this is a case of distracted driving that supports a punitive damage claim.

Mary Collins sustained significant injuries in the accident. She had bruises on her upper body from the impact with the interior of the vehicle. Mrs. Collins was airlifted from the scene of the accident to Buffalo Medical Center. She was examined in the emergency room by Dr. William Thomas who confirmed her injuries were related to the accident. Unfortunately, her conditions did not improve and 10 days later she was examined at the Buffalo Neuroscience Center by Dr. Katherine Coleman, a neurologist. Dr. Coleman has continued to monitor and treat Mrs. Collins has now diagnosed her with a moderate permanent brain injury resulting from the accident. In addition, Dr. Coleman has recommended surgery to address the continued lumbar back pain. Mr. Collins has had pain in her back and suffered from persistent headaches since the day of the accident. Mrs. Collins is entitled to significant compensation for the permanent and painful injuries she suffered when your insured negligently ran her off the road.

The relationship between Mary and James Collins has changed significantly following the accident. Prior to the accident Mary and James enjoyed each other's company with frequent travel and a fulfilling intimate relationship. Since the accident the couple has not been able to continue the same level of activity. These changes are likely to be permanent and will impact their relationship for many years to come. Thus, Mr. Collins is entitled to compensation for his loss of society and consortium.

Economic Damages

Mary Collins has incurred \$80,000 in medical expenses to date. The cost for future care related to injuries is \$1,200,000.

Past Medical Expenses

Buffalo Medical Center \$30,000

Neuroscience Center of Buffalo \$35,000

Emergency Airlift and Miscellaneous prescription and medical devices \$15,000

Future Estimated Medical Expenses

Continued monitoring, treatment and therapy for permanent brain injury \$1,000,000

Surgery for lower back to relieve pain and subsequent physical therapy \$200,000

In addition, Mrs. Collins has been unable to return to her job as a human resources manager. Her compensation before the accident was \$75,000. It is very unlikely Mrs. Collins will be able to return to work. At the time of the accident she had a work life expectancy of 40 years. Thus she will be seeking lost past and future wages of \$3,000,000.

Non-Economic Damage

Mrs. Collins has suffered pain everyday since the time of the accident. She will continue to suffer pain for the rest of her life projected as another 60 years. Mrs. Collins alone is entitled to well over \$1,000,000 in compensation for her pain and suffering. In addition, Mr. Collins is entitled to compensation for the loss of his relationship with his wife. Mr. Collins is confident a jury will award him significant compensation for the relationship your insured's negligence altered forever.

Based upon the prior communication from you we understand that the applicable policy limits are \$3,000,000 and that there is no excess coverage. Please advise us immediately if our understanding of policy limits and available coverage is not correct. The settlement offer in this letter is void if this understanding is not correct.

As you know, our clients made a prior offer to settle and received no response from you or your insureds. This failure to respond is a clear indication of bad faith claim handling. Our clients would prefer to get his case resolved without further delay and, therefore they make the

following offer but if the claim is not resolved, our clients will pursue all options, including potential bad faith claims against Best Value Insurance.

Mrs and Mr. Collins make this final offer to resolve their claims for the full \$3,000,000 policy limits provided payment is made within 28 days from the date of this letter. We also require an Affidavit confirming that there is no other potentially available insurance coverage and that Peterson Trucking and Jimmy Peterson do not have liquid assets in excess of \$3,000,000. Payment should be made by check or wire transfer payable to the Brooks and Crooks Client Trust Account. Please contact us for specific payment information. Payment must be sent to my

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contingent on resolution of any liens. If your insured requires a release, Mrs and Mr. Collins will execute a standard claim release upon receipt of the funds. Failure to accept this offer will result in an amended complaint seeking punitive damages and exposing your insured to excess or uncovered liability.

Please forward this letter to your insureds. We look forward to a prompt response from you or your insured. Any counter-offer will be considered a rejection of this offer and this offer will no longer be available. Please give this offer careful consideration as it is the last opportunity to settle within policy limits.

Albert Crooks

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