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January 30, 2017 RE: Doe v. Smith

 Okla. Cty. CJ-2017-444

Defense Attorney

2601 NW Expressway

Oklahoma City, OK 73112

Dear Joshua,

I have authority to accept, if offered in the next 21 days, and paid within 20 days from my providing valid check instructions, your client’s $25,000 bodily injury liability limits.

**Liability (see enclosed photos)**

* **Mr. Smith had the best opportunity to avoid the wreck by simply remaining stopped until the Doe car passed.**
* **Mr. Smith should have seen the Doe vehicle as photographs show he had a clear view for more than 1/3 mile toward the direction of the Doe car approach.**
* **Photographs reveal only the slightest incline in the direction of the Doe approach, that would not have obscured Mr. Smith’ view of the Doe car.**
* **Photographs taken from the stop sign show the “barn” would not have obscured Mr. Smith’ view to the east, though it may have partially obscured Mr. Doe’s view of Smith’ truck.**
* **Given the straight, unobstructed, nearly level, approach from the east, Mr. Smith should have seen the Doe car, but Smith admits he “[d]idn’t see him [Doe] until after he hit me.”**
* **Photographs show Mr. Doe was not driving at high speed: not only do they show impact damage inconsistent with excessive speed, but they show that a point of rest in what has to also be nearly the same as the point of impact.**

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* **Photographs contradict Smith claim he nearly cleared the intersection and that Mr. Doe failed to evade and could have done so: the skid photos show that Mr. Doe attempted to evade; the impact/rest photos reveal a collision near the center of the intersection, but almost entirely in Mr. Doe’s lane of travel. This shows that Mr. Doe was very close to the intersection when Mr. Smith attempted to cross.**
* **That Mr. Doe could not have avoided the collision is also confirmed by the damage to the vehicles, which is not merely to Mr. Smith’ rear bumper, but extends 4-5’ from his rear tire down the quarter panel, to the bumper. Mr. Doe’s damage starts just inside his passenger headlight, runs across the grill and across the driver’s headlight. Correlating the damage photos with the point of rest photos and skid photos (and Nixon’s testimony that Smith was “halfway” through the intersection at impact, shows that the collision occurred mostly in Mr. Doe’s lane of travel. This, again, tells us Mr. Doe already owned the intersection when Mr. Smith’ entered the intersection.** *Indeed, Mr. Smith’ likely owes his life, and that of his wife, and other passenger to the fact Mr. Doe got hard on the brakes when Mr. Smith pulled into the intersection against the stop sign.*
* **Mr. Knight, the witness, contrary to what he told the Geico adjuster, told Mr. and Mrs. Doe that Mr. Smith was not watching the intersection, but was instead waving at Mr. Nixon when Smith entered the intersection.**
* **What Knight did report to Geico shows Mr. Smith looked right, then left, but failed to look back right before entering the intersection.**

**Injuries**

Ms. Doe was seen at the ER the day of the wreck complaining of pain “down her whole right hip leg and foot” as well as right side lumbar pain.

She has since then endured an extensive and painful course of treatment that has not come to an end. See enclosed Supplement to Plaintiff’s Answer to Interrogatories, for a detailed narrative of her treatment regime.

She is scheduled for surgery on February 23. She has been told the “self-pay” amount, which is discounted by 30%, for the hospital portion is $6,000. She will also have to pay the surgeon and the anesthesiologist, but we do not know what those charges will be. She is told to expect 14 weeks of physical therapy (her surgeon told her 3-4 months), 3 times per week, which will be about $12,000. She will be on crutches for 6 weeks during which time her employer will not allow her to work and she will miss additional time after that for her physical therapy (she calculates an additional $4000 in lost income).

This has been an excruciating injury for Ms. Doe, with at least another six months or perhaps much more to go, if ever she makes a full recovery. She will likely be susceptible to future degeneration from the injuries, and thus need future care and experience future pain.

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**Loss of Income**

Ms. Doe has lost $3000 already at her job. She will be out another $4000 or more for her surgery and recovery.

**Special Damages Totals**

Past medical: $13,000 as of October 2016

Past wage loss: $3000

Known future medical: $6,000 Hospital charge

 $12,000 Physical Therapy

 $ as-yet-unknown Surgeon’s charge

 $ as-yet-unknown Anesthesiologist’s charge

Known future wage loss: $4000

Lost income opportunity: yet to be calculated.

Future care need: yet to be calculated.

$37000 calculated special damages.

**Excess Verdict**

Should Geico not pay the $25,000 policy limits as set out in the first paragraph, please let Mr. Smith know that we will regretfully be forced to go to trial and seek a verdict for the entirety of Ms. Doe’s damages, which I anticipate to be well in excess of his coverage limits.

Be advised the above time limits will not be extended since Ms. Doe continues with treatment (as noted, she has surgery scheduled) such that her damages, and medical payback, only continue to grow.

**Discovery Supplementation**

Also enclosed is additional narrative response to your discovery questions pertaining to nature and extent of injuries and treatment, as well as medical and income damages.

Thank you for your consideration.

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 Sincerely,

 

 Paul Kouri

PK/hs

Enclosures

CC: Jean Doe w/o by email