

**HABERKORN & ASSOCIATES**

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**MATTHEW H. HABERKORN, ESQ.**  
ATTORNEY AT LAW

PO Box 7474  
Menlo Park, CA 94025  
e-mail: matthewhaberkorn@mac.com

TELEPHONE (650) 268-8378

FACSIMILE (650) 332-1528

March 11, 2014

***Via Facsimile Only***

**916-294-3598**

Nichole Blair  
Mercury Insurance  
104 Woodmere Road  
Folsom, CA 95630

Re: Your Claim No.: 2013 0015 006821-29  
Your Insured: Tina M. and Harold Kinoshita  
Claimant: Jon G. Bjornstad  
Date of Loss: November 21, 2013

**Settlement Demand: \$15,0000**

**Expiration of Demand: April 11, 2014**

Dear Ms. Blair:

As you know, our office represents Mr. Jon G. Bjornstad who has a claim for personal injuries and property damage against your insureds, Tina and Harold Kinoshita, arising out of an incident that occurred on the date stated above. The general and special damages sustained by our client are detailed below, and we believe that if the case goes to trial he will undoubtedly recover far more than \$15,000 being demanded in this letter. Nevertheless, Mr. Bjornstad has authorized us to settle all claims against your insureds for \$15,000 at this stage in the claim's handling prior to filing suit in the San Mateo County Superior Court.

Mr. Bjornstad's settlement demand is based upon the facts stated below:

**The Incident:** On November 21, 2013, at approximately 5:57 p.m., our client was proceeding on his bicycle in a westbound direction on the north sidewalk in front of 201 Redwood Shores Parkway. Mr. Bjornstad's bicycle was equipped with two lights, one white light in front and a red light in the rear. Due to the darkness at the time of the night, and given the heavy traffic along Redwood Shores Parkway, Mr. Bjornstad was utilizing the sidewalk instead of the designated bike lane that traverses parallel to the

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traffic heading in the same direction. As Mr. Bjornstad approached the intersection of the parking lot exit for the building located at 201 Redwood Shores Parkway, he saw a car, later identified as a vehicle being driven by your insured, Harold Kinoshita, approaching the crosswalk and intersection. Prior to the intersection, there was a stop sign facing your insured's vehicle in a location some distance before the crosswalk. Mr. Bjornstad proceeded through the intersection, staying within the crosswalk, when Mr. Kinoshita proceeded to roll through the stop sign into the crosswalk. Mr. Kinoshita's vehicle then broadsided Mr. Bjornstad and his bicycle.

**Liability:** Physical evidence and a witness statement given to the police at the scene of the accident indicate that Mr. Kinoshita's vehicle did not stop at the stop sign before entering the crosswalk. Said stop sign was placed before the limit line for the crosswalk. Although the police report, and specifically the officer's "cause" of the accident, is inadmissible in Court, the officer opined that Mr. Bjornstad was at fault for riding on a sidewalk in violation of California *Vehicle Code* section 21663. The fact that Mr. Bjornstad was riding on the sidewalk prior to the collision is really not an important fact bearing on liability, for at the time of the accident, Mr. Bjornstad was legally within a crosswalk when the collision occurred. In other words, where Mr. Bjornstad chose to ride his bicycle prior to entering the crosswalk is irrelevant.

On the other hand, Mr. Kinoshita failed to stop at a stop sign, as many other vehicles tend to do at this intersection so as to quickly exit the parking lot and proceed on to Redwood Shores Parkway. Your insured, in failing to come to a complete stop at the stop sign before the crosswalk was in violation of California *Vehicle Code* section 22450(a) which states: "[t]he driver of any vehicle approaching a stop sign at the entrance to, or within, an intersection shall stop at a limit line, if marked, otherwise before entering the crosswalk on the near side of the intersection. Mr. Kinoshita's failure to stop at or before the limit line, was the sole cause of this accident.

**Injuries:** Mr. Bjornstad had been hit on his right hip and buttock and landed on the ground on the same side. Paramedics arrived at the scene. Mr. Bjornstad felt he was well enough to be released to return home. Then, Mr. Bjornstad arrived home and assessed his body, which was aching badly. The pain was not acute or sharp but it was extending from his right buttock and hip across the lower back and up the spine. Mr. Bjornstad decided that he needed medical attention, so he drove himself to the Sequoia Hospital Emergency Room where he was quickly assessed and asked what had happened. On physical examination, the physician on call determined that nothing was broken and that no x-ray was needed. Mr. Bjornstad was prescribed ice packs for the next two to three days and then heat and provided a prescription for pain medications - Ibuprofen and Oxycodone, as needed.

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On December 4, 2013, still feeling the aches and pains in his low back and right side from his buttocks, right hip and down his leg, Mr. Bjornstad consulted his primary care physician, Dr. Peter Bullock. Dr. Bullock ordered x-rays and prescribed physical therapy two to three times weekly for four weeks. X-rays revealed no evidence of an acute or chronic fracture.

Following several physical therapy appointments with Redwood City (Evergreen) Physical Therapy performed by Stuart Katzman, PT, DPT, Mr. Bjornstad has advised this office that he is back to his normal self and feeling pain free.

In addition to the foregoing, Mr. Bjornstad has suffered emotional distress resulting from this accident. He has become extremely nervous, agitated and emotionally upset due to the physical pain, and the disfigurement and impairment of bodily mobility resulting from his injuries as well as his fear of riding his bicycle anywhere in the vicinity of motor vehicles.

**Interim Medical Bills:** The following is a list of Mr. Bjornstad's medical bills and expenses to date. This list may not be final; due to the continuing nature of his injuries, other medical expenses may be incurred hereafter.

Arch Street Medical	348.88
CEP Dekalb Medical Center	185.96
Sequoia Hospital	1,032.39
Redwood City (Evergreen) Physical Therapy	310.00
California Emergency Physician Medical Group	185.96
Valley Radiology	
Walgreens Pharmacy	
128.77	
<u>22.10</u>	
\$2,214.06	

**Property Damages:** Mr. Bjornstad paid \$151.80 for repair of his bicycle.

Copies of each of the foregoing bills and/or Explanation of Benefits from his health insurance carrier are enclosed herewith for your reference.

**Conclusion:** As stated above, our client's out-of-pocket medical costs to date are \$2,214.06; and the damage to his bicycle was \$151.80. In addition, he has suffered and continues to suffer pain, disfigurement and emotional anguish from his physical injuries.

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Taking into consideration the strong evidence of liability in this case, and the injuries suffered by our client, we believe Mr. Bjornstad will recover at least \$20,000 to \$25,000 if this case goes to trial. However, as stated at the outset, we have his authority to settle all claims against your insureds for \$15,000. This offer to settle will expire on April 11, 2014. Should the offer not be accepted in a timely fashion we are authorized to file suit immediately.

We look forward to hearing from you in regard to resolving this matter short of litigation.

Sincerely,

Matthew Haberkorn, Esq.

Enclosures

/MHH

cc: Jon Bjornstad (w/out enclosures)