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Dear Attorney [REDACTED],

I am sending this document to you, along with confidential medical notes and bills in an effort to effectuate settlement of this claim.

#### FACTS:

On the morning of November 29, 2010 Ms. [REDACTED] drove a vehicle to [REDACTED] campus to attend morning class. The vehicle she drove was owned and insured by her boyfriend's grandfather, [REDACTED], your insured. Mr. [REDACTED] had given her permission to use the vehicle to travel to school. As Ms. [REDACTED] entered the campus and turned into a parking lot next to the [REDACTED] building, she was told to stop her vehicle by my client, [REDACTED], who stood in front of her vehicle and signaled for her to stop. Mr. [REDACTED] was directing traffic in his capacity as an [REDACTED] Security Officer. Mr. [REDACTED] instructed the vehicle to stop and approached the passenger side. Ms. [REDACTED] asked if she could park in the parking lot to her right. Mr. [REDACTED] responded that she could not because the parking lot was full. Ms. [REDACTED] argued with Mr. [REDACTED] that she could see a parking space open in that parking lot. She began accelerating her car by pressing the gas momentarily as if to threaten to run over Mr. [REDACTED].

Seeing that Ms. [REDACTED] was becoming hostile, Mr. [REDACTED] asked to see Ms. [REDACTED]'s student identification and driver's license. Ms. [REDACTED] indicated that it was in her purse and gestured as if she were reaching for it. Instead, Ms. [REDACTED] quickly accelerated her vehicle. The force of the acceleration trapped Mr. [REDACTED]'s arm in the rear corner of the window frame as the car moved forward. Mr. [REDACTED]'s foot became lodged between the curb and the pavement,

creating a violent torquing force, tearing his left hamstring and twisting his torso. Ms. [REDACTED]'s vehicle sent Mr. [REDACTED] flying into the air before landing violently on the pavement. Ms. [REDACTED] continued into the parking lot, parked her vehicle and walked to class. Soon after arriving to class, [REDACTED] Security entered Ms. [REDACTED]'s classroom and apprehended her.

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Meanwhile, Mr. [REDACTED] was rolling on the ground, grabbing his leg, and calling out in pain. Students came to his aid immediately and telephoned an ambulance. The [REDACTED] Police Department investigation report includes witness statements from 5 students who witnessed the incident. The [REDACTED] County District Attorney's Office Witness list includes witness statements from 7 students and an [REDACTED] Security Officer who witnessed the incident. Every witness statement similarly describes Ms. [REDACTED]'s vehicle striking Mr. [REDACTED] and knocking him to the ground.

Affidavits of four eyewitnesses, [REDACTED], [REDACTED], [REDACTED], and [REDACTED] are conclusive that Ms. [REDACTED] acted negligently, grossly negligently, and with reckless disregard for Mr. [REDACTED]'s safety. A summary of the attached affidavits is as follows:

Ms. [REDACTED] approached Mr. [REDACTED] in her vehicle at the entrance to a parking lot and argued with him over the parking situation. Ms. [REDACTED] abruptly accelerated her SUV, screeching her tires as she sped forward into the parking lot. As she drove forward, her vehicle struck Mr. [REDACTED], knocking him into the air before he landed on his back. As he landed, Mr. [REDACTED] cried out in pain and grabbed his leg. Ms. [REDACTED] parked her vehicle and, after glancing toward Mr. [REDACTED], walked quickly to class. A copy of the [REDACTED] Police Investigative Report is attached as **Exhibit 1**. Copies of witness affidavits are attached as **Exhibit 2**.

Ms. [REDACTED] was later arrested in her classroom. Ms. [REDACTED]'s first inquiry to the officer was what would happen to her car, demonstrating a callous indifference to Mr. [REDACTED]'s well being. During the entire arrest and booking process Ms. [REDACTED] never inquired as to Mr. [REDACTED]'s condition or whether he was injured.

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Following the incident, Mr. [REDACTED] was immediately transported via ambulance to [REDACTED] Hospital where he complained of severe leg pain. He was given morphine for pain and treated for a hamstring hematoma and prescribed Percocet for pain.

In July, 2011 Ms. [REDACTED] pled guilty to Reckless Driving to Endanger (N.C.G.S. § 20-140(b)), Assault with a Deadly Weapon (N.C.G.S. § 14-33(c)(1)), and Misdemeanor Hit and Run (N.C.G.S. § 20-166(a)). A person is guilty of Assault with a Deadly Weapon (N.C.G.S. § 14-33(c)(1)), when in the course an assault a person causes serious bodily injury to another person or uses a deadly weapon. A person is guilty of Reckless Driving to Endanger (N.C.G.S. § 20-140(b)) when he or she "drives any vehicle upon a highway or any public vehicular area without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property". A person is guilty of Misdemeanor Hit and Run (N.C.G.S. § 20-166(a)) when he or she drives a vehicle and knows or reasonably should know that he or she was involved in an accident that resulted in serious injury or death of another person. In her deposition Ms. [REDACTED] acknowledged that she understood the charges against her and voluntarily pled guilty to all charges. In her plea agreement, Ms. [REDACTED] acknowledged that she was "in fact guilty", and understood the charges against her and voluntarily plead guilty to all charges. A copy of the Judgment and the Plea Agreement are attached as **Exhibit 3**.

### **MEDICAL TREATMENT**

As a result of the accident, Mr. [REDACTED] has undergone treatment for the last 23 months for hamstring avulsions and low back pain. Mr. [REDACTED] first presented to [REDACTED] Hospital with complaints of right leg pain. He was diagnosed with a hamstring hematoma and given Vicodin for pain, as well as crutches.

He presented to Dr. [REDACTED] at [REDACTED] on December 8, 2010 with complaints of right leg and hip pain. MRI images from [REDACTED] Hospital did not reveal fractures of his pelvis or femoral diaphysis. However, the MRI of his pelvis revealed a tear of the origin of the biceps femoris from the ischium and resulting hematoma. A diagnosis of a tear, biceps femoris, and an avulsion

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from ischium were noted. Dr. [REDACTED] instructed that Mr. [REDACTED] should recover nicely with time. However, over the next couple of months, Mr. [REDACTED]'s leg and hip pain increased. He found that work became more difficult, particularly the physical aspects of his work as a security and probation officer. However, Mr. [REDACTED], relying on Dr. [REDACTED] recommendation that he would recover with time, tried to push through the pain in the hopes that it would go away.

Finally, Mr. [REDACTED] presented to [REDACTED] with complaints of severe right leg and hip pain. An X-ray of the lumbar spine revealed degenerative changes at the L4-L5 and L5-S1 regions. An MRI was ordered of the pelvis and right hip to look for labral tear and biceps femoris tear. Based on the MRI findings, Dr. [REDACTED] diagnosed an avulsion of the bulk of the hamstring tendons with two small fibers attached. Dr. [REDACTED]'s September 23, 2011 notes diagnose a right hamstring avulsion, torn 80%. He advises that if the hamstring were to tear the rest of the way, there would be an urgent need for surgery. He referred Mr. [REDACTED] to [REDACTED] Medical Center to see a specialist to evaluate for surgery.

Copies of Mr. [REDACTED]'s relevant medical records are attached as **Exhibit 4**.

Mr. [REDACTED] presented to [REDACTED] Medical Center before being referred to [REDACTED] Health for evaluation by Dr. [REDACTED]. He presented to Dr. [REDACTED] on three occasions before Dr. [REDACTED] was asked to write her opinion on Mr. [REDACTED]'s prognosis and future medical treatment.

Dr. [REDACTED] opined that Mr. [REDACTED] has a bilateral lower extremity combined impairment rating of 20% based on North Carolina Industrial Commission guidelines. She also opined that Mr. [REDACTED] has a lumbar spine impairment rating of 8% based on North Carolina Industrial Commission guidelines. Dr. [REDACTED] writes that "It is my impression that the problems that I am treating with respect to bilateral ischial and hamstring pain; the ruptured hamstring on the right side and the pain related to tendinopathy on the left side, and the problem of low back pain can be appropriately related to the injury sustained on November 29, 2010."

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Dr. [REDACTED] also opined that ongoing medical treatment will be necessary for Mr. [REDACTED]'s hamstring and low back injuries. She writes that Mr. [REDACTED] suffers from a chronic high grade partial to full rupture of his right proximal hamstring; that a decision about whether to pursue surgery will ultimately be Mr. [REDACTED]'s decision, but that it may involve a high risk surgery with involvement of another physician with prolonged recovery of up to one year. Surgery includes the risk for nerve injury as well as ongoing pain and ongoing weakness. It also involves significant recovery and a long course of physical therapy rehabilitation.

Mr. [REDACTED]'s low back pain will also require future medical treatment. An August 1, 2012 MRI revealed degenerative changes of the lumbar spine which became symptomatic after the incident on November 29, 2010. Dr. [REDACTED] does not see any immediate need for low back surgery, however she notes that Mr. [REDACTED] could become a candidate for additional pain relieving measures for his back, such as physical therapy, TENS Unit, or injections. She writes that Mr. [REDACTED] will have permanent impairments to his lower back; a spine specialist is needed to determine a course of treatment. A copy of Dr. [REDACTED]'s letter is attached as **Exhibit 5**.

Mr. [REDACTED] currently suffers significant pain from his injuries. He has difficulty walking, sitting for prolonged periods, exercising, performing routine household tasks, as well as many other activities. Because Mr. [REDACTED]'s injuries became increasingly painful and debilitating, he took an early retirement from his employment in July of 2012. Dr. [REDACTED] notes that Mr. [REDACTED] "has had dramatic alteration of his capacity to function" and "incapacitating" pain which requires chronic medication management.

[REDACTED], a certified life care planner has reviewed Mr. [REDACTED]'s medical records and wrote a report summarizing the expenses of Mr. [REDACTED]'s future medical care and treatment. She calculates \$175,000 in future medical treatment. Ms. Cates' report is attached as **Exhibit 6**.

Mr. [REDACTED]'s Medical Bills to date total in excess of **\$12,000**. Future surgery and future treatment will dramatically increase that total. Mr. [REDACTED]'s bills to date are included as **Exhibit 7**.

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To prove negligence a Plaintiff must demonstrate: Duty, breach, causation, and damages. Obviously, Ms. [REDACTED], as a permissive user of your insured's vehicle has a statutory duty to drive with caution and circumspection. The evidence is overwhelming that Ms. [REDACTED] breached that duty. The APD Police investigation cites 8 witnesses, including two police officers all of whom state that Ms. [REDACTED] quickly accelerated her vehicle striking Mr. [REDACTED] and violently knocking him into the air before Ms. [REDACTED] fled the scene. Affidavits from 4 of these witnesses are attached as Exhibit 2. Statements from other witnesses are included in the Police Report. Mr. [REDACTED]'s own version of the events is consistent with the witnesses.

Additionally, Ms. [REDACTED] pled guilty to Assault with a Deadly Weapon, Hit and Run, and Reckless Driving to Endanger. Her plea agreement admits that she is "in fact" guilty, and that she pled knowingly and voluntarily to the charges against her. As you know, her guilty pleas would operate as an admission in court. Furthermore, Ms. [REDACTED]'s deposition wherein she claimed that her vehicle never struck Mr. [REDACTED] and she never knew he was injured is contrary not only to 8 eyewitnesses and Mr. [REDACTED], but also contradicts her own admission before the [REDACTED] County Superior Court that she is "in fact" guilty to the elements of the charges against her. In short, Ms. [REDACTED]'s deposition testimony is simply not believable.

Ms. [REDACTED]'s breach proximately caused Mr. [REDACTED]'s injuries. Dr. [REDACTED], an orthopaedic specialist at [REDACTED] Health, following a review of Mr. [REDACTED]'s medical record opines that Mr. [REDACTED]'s injuries to his hamstrings and low back are a "direct consequence" of the accident on November 29, 2010. Mr. [REDACTED]'s own testimony similarly traces the pain in his legs and back to the accident on November 29, 2010.

Finally, Mr. [REDACTED] can demonstrate compensatory damages, pain and suffering, as well as punitive damages. Mr. [REDACTED] has incurred and will continue to incur substantial medical bills. The prospect of future surgery, rehabilitation and pain management highlight his financial loss as

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a result of Ms. [REDACTED]'s actions. Mr. [REDACTED]'s pain and suffering as a result of this incident is substantial; he cannot sit or stand in one place for prolonged periods of time. He cannot perform typical household functions. Dr. [REDACTED] refers to Mr. [REDACTED]'s "incapacitating pain" and "dramatic alteration of his capacity to function".

Ms. [REDACTED]'s actions trigger punitive damages. Punitive damages are appropriate where the Defendant is liable for compensatory damages and there exists one of the aggravating factors of fraud, malice, or willful or wanton conduct. Willful or wanton conduct is defined as "the conscious and intentional disregard of and indifference to the rights and safety of others, which the defendant knows or should know, is reasonably likely to result in injury, damage, or other harm." Ms. [REDACTED]'s guilty plea to Reckless Driving to Endanger is an admission that she drove "without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property." Her guilty plea to Misdemeanor Hit and Run is an admission that she drove "a vehicle and knows or reasonably should know that he or she was involved in an accident that resulted in serious injury or death of another person" and failed to "immediately stop his or her vehicle at the scene of the accident or collision." Her admissions rise to the level of an indifference to the rights and safety of Mr. [REDACTED], of which Ms. [REDACTED] knew or should have known was reasonably likely to result in his injury.

Mr. [REDACTED] easily establishes a duty, breach, causation and damages far in excess of the policy limits of your insured. Please consider this a policy-limits demand for \$100,000. This offer to settle will be revoked if not accepted on or before [REDACTED] at 5 pm. After that time we will proceed to trial and obtain a judgment.

Please call me if you have any questions or would like to discuss this matter further.

Thank You,

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