***[UIM Policy Limit Demand for Auto Wreck Case]***

November 1, 2018

**VIA CERTIFIED MAIL**

**RETURN RECEIPT REQUESTED**

GEICO

One GEICO Center

Middle City, GA 31295-0001

Re: **UIM DEMAND**

Claim No: 048048048048

Our Client/Your Insured: Kim Brown

Responsible Party: Vinnie Vincent (USAA Ins.)

Date of Loss: March 1, 2018

**UIM POLICY LIMIT DEMAND**

Dear GEICO Insurance,

**This letter is made for the purpose of attempting to compromise disputed claims. It is subject to the privileges attached to proposals to compromise, including but not limited to O.C.G.A. §§ 24-4-408, 51-12-14(d) and Federal Rules of Evidence 408.**

As you are aware, this law firm has been entrusted with the responsibility of assuring that our client and your insured has the financial resources to both medically treat her injuries and to be fairly compensated for the other damages flowing there from.

Recognizing that GEICO as UIM carrier shares in this responsibility as the driver of the vehicle which caused this collision was woefully underinsured (he only carried $25,000 per person/$50,000 per accident in insurance); the enclosures are intended to document our client’s injuries and to provide GEICO Insurance the opportunity to resolve all claims within our client’s policies of insurance and without need for further litigation and/or mediation.

We have been advised that Ms. Kim Brown (your policyholder) has one (1) add-on policy of UM/UIM insurance with limits of $30,000 per person/$60,000 per accident. **Based on the foregoing, my client has authorized me to settle the following UIM claim against GEICO Insurance for the full policy limits of $30,000.00.**

**LIABILITY – AUTO ACCIDENT OF MARCH 14, 2018**

On March 1, 2018 at approximately 7:00 A.M., Ms. Brown was driving a 2008 Acura RSX heading eastbound with the right-of-way on High Rd at its intersection with Creek Place in Large City, GA. As Ms. Brown was proceeding straight (eastbound) on High Rd, Mr. Vincent failed to yield while turning left, jetted in front of our client’s vehicle, and caused the accident at hand to occur. (see the attached accident report for a more detailed diagram of the incident) According to the police report, it was noted that our client’s vehicle sustained **severe damage** as a result of this accident. Furthermore, at the time of the impact, Ms. Brown’s head hit the driver’s side window and she eventually had to be removed forcefully from the vehicle as well since her door was unable to open.

Immediately following the crash, the police were called and Officer D. Baker of the GA Dept. of Public Safety responded to the scene. Upon investigating the scene and interviewing the drivers, Officer Baker issued Mr. Vincent a citation for “failure to yield turning left” in violation of O.C.G.A. §40-2-71. So, but for, Mr. Vincent’s negligent actions as stated above, this collision would not have occurred. This sequence of events, with no intervening or superseding actions, indisputably led to the damages and injuries suffered by Ms. Brown outlined below. Mr. Vincent’s negligence is therefore the proximate cause of our clients’ losses.

Our client entitled to fair compensation for her physical, emotional, mental, and financial injuries sustained as a result of this loss. USAA prepared a thorough investigation and concluded that their insured was at fault. Our client has signed a LIMITED LIABILITY RELEASE TO DATE (see attached) and we are now looking to GEICO as UIM carrier in this matter to supplement compensation for our client due to the fact that Mr. Vincent was underinsured in comparison to our client’s damages outlined below.

We are prepared to file suit to obtain a proper recovery for Ms. Brown; however, in a good faith gesture of professional courtesy, my client is making a one-time pre-trial settlement demand to resolve this claim amicably and efficiently before litigation. I think it would be in GEICO’s best interest if you considered our client’s generous offer pre-trial settlement, and failure to tender policy limits may result in additional exposure GEICO Insurance as an excess verdict is almost certain. (our client still complains of ongoing pain to date)

**BODILY INJURIES & PAIN AND SUFFERING**

At the accident scene, Ms. Brown complained of severe pain to her head, neck, back, face, and jaw and EMS personnel were called to attend to the scene. Ms. Brown

was transported to Big City Hospital via AMR ambulance from the accident scene.

*Big City Hospital*

At Big City Hospital, Ms. Brown was evaluated by Dr. Paula Bones (MD) and given x-rays and a physical examination to determine if she needed more invasive treatment. After performing the exams, Dr. Brathwaite ultimately diagnosed Ms. Brown with the following:

**S00.83XA – Contusion of other part of head, initial encounter**

**M. 54.2 - Cervicalgia**

Dr. Bones prescribed Ms. Brown pain medication in order to help alleviate her pain and recommended that she follow up if her pain persisted/worsened in the coming days. Ms. Brown was discharged that same day from Big City Hospital.

*Southern Clinic*

In the weeks following her ER visit, Ms. Brown took her prescribed medication and rested to no avail – her pain continued to worsen. Due to her ongoing pain, Ms. Brown decided to visit Southern Clinic on April 1, 2018 for further evaluation/treatment. At Southern, Ms. Brown was given a physical examination by Dr. June Knee (MD) and ultimately diagnosed with the following:

**G89.11 – Acute pain due to trauma**

**S13.8XXA – Sprain of joints and ligaments of other parts of neck, initial encounter.**

**S33.5XXA – Sprain of ligaments of lumbar spine, initial encounter.**

Ms. Brown was recommended to undergo an MRI of her cervical spine in order to assess if she needed more invasive treatment. Additionally, Dr. Knee referred Ms. Brown for conservative treatment/physical therapy in order to help alleviate her pain. Dr. Knee also recommended that Ms. Knee follow up with a neurologist for further evaluation and treatment regarding her headaches and loss of sleep issues as well.

*Radiology of Georgia*

On April 6, 2018, Ms. Brown underwent an MRI of her cervical spine at Radiology of Georgia. The MRI revealed the following:

1. **Straightening of the cervical lordosis**
2. **C5-C6: Disc bulge compressing on thecal sac**

*Big City Orthopaedics*

On May 3, 2018, Ms. Brown visited Big City Orthopaedics for further evaluation regarding ongoing neck and back pain. At Orthopaedics, Ms. Brown was seen by Dr. Scott Bigcity (MD) and was recommended to undergo a lumbar MRI to further explore her back pain issue. Due to health insurance and scheduling issues, Ms. Brown was unable to get the MRI done until the next month at the recommendation of Dr. Joseph. In the interim, Ms. Brown continued to treat with conservative treatment at Southern.

*Center City Neurology, P.C.*

While still undergoing conservative treatment at Southern, Ms. Brown visited Dr. Joseph at Center City Neurology on June 1, 2018 at the recommendation of Dr. Knee. Ms. Brown was feeling severe daily headaches up to this point and felt that her symptoms were not getting any better. At Center, Dr. Joseph performed a physical examination upon Ms. Brown and noted that she had neck range of motion issues as well as jaw clicking issues as well. After reviewing prior MRIs and analyzing Ms. Brown’s complaints, Dr. Joseph ultimately diagnosed Ms. Brown with the following:

**F07.81 – Postconcussional syndrome**

**G43.009 – Migraine without aura, not intractable, without status mirainosus**

**M54.17 – Radiculopathy, lumbosacral region**

Dr. Joseph recommended that Ms. Brown continue with chiropractic treatment, take over the counter migraine medication (because she couldn’t afford to pay for prescription grade medication at the time), and be referred to an oral surgeon for further evaluation regarding the jaw clicking issues. A TENS unit was provided to her to help alleviate her pain as well and an MRI was recommened of the brain and lower back in order to further evaluate her issues. Lastly, according to Dr. Joseph, “**migraines are chronic and usually a LIFELONG condition that requires usually chronic and lifelong treatment…like other chronic illnesses (such as diabetes for example) it can be controlled but it can not be cured.”**

*North City Hospital*

On July 9, 2018, Ms. Brown visited North Hospital at the recommendation of Dr. Joseph to undergo MRIs of her brain and lower back. The lumbar MRI revealed the following:

1. **L4-5: Mild diffuse disc bulge. Bilateral facet arthropathy. Otherwise normal.**
2. **L5-S1: Minimal disc bulge. Otherwise normal.**

Additionally, the brain MRI revealed the following:

1. **No acute infarct. No brain parenchymal signal abnormalities. NO intracranial hemorrhage.**
2. **Mildly low-lying cerebellar tonsils, which do not meet criteria for a Chiari I malformation.**

*Center Neurology, P.C.*

Ms. Brown followed up post-MRI with Dr. Joseph on July 21, 2018 to go over her results and for further evaluation/treatment. After reviewing the MRI results and conducting a physical exam, Dr. Joseph ultimately diagnosed Ms. Brown with the following:

1. **Grade 1 concussion.**
2. **Sinusitis.**
3. **Post-concussive syndrome, recovering.**
4. **Post traumatic migranes, unimproved.**

Dr. Joseph prescribed Ms. Brown \_\_\_\_\_\_\_\_\_\_\_ to help her alleviate the pain of her migraines and advised that she continue to use her TENS unit. Additionally, Dr. Joseoh recommended that Ms. Brown visit an oral surgeon for evaluation when she was able to afford the consultation as well.

*Southern Clinic*

On July 22, 2018, Ms. Brown visited Southern Clinic for her last visit regarding her physical therapy/conservative treatment. Ms. Brown’s treatments at Southern Clinic for the most part consisted of electric muscle stimulation, ultrasound therapy, manual therapy, mechanical traction, and chiropractic adjustments for the most part. Ms. Brown treated for 20 visits at Southern Clinic between the dates of 4/1/18 to 8/1/18.

**FUTURE MEDICAL EXPENSES**

To date, Ms. Brown continues to experience migraines as well as pain in her neck, back, and left jaw. As demonstrated by the MRI reports, Ms. Brown currently has to deal with **FIVE** bulges in her spine (three of which are in her neck and two in her back). She currently does not have health insurance and is having a hard time finding a provider that will treat her on a lien basis. Once she is able to find an orthopedist/oral surgeon that is able to treat her, she will get an evaluation for surgery regarding her neck/back pain and jaw clicking issues. It is very probable that this accident caused these issues because it is on her left side, which is the same side that hit the window violently during the crash that she sustained the brunt of the impact. If surgery or injections in her neck/back are warranted in the future, then this will definitely cause Ms. Brown’s medical expenses to increase substantially. Furthermore, as noted in Dr. Jospeh’s records, migraines are a chronic condition and there is no definite cure for this. As you are aware, injuries usually tend to worsen over time so she will have to deal with this problem for a long time to come. (and she will also need be compensated accordingly to be able to manage these issues)

**SUMMARY OF SPECIAL DAMAGES TO DATE**

**EMR Ambulance $2,144.00**

**Big Greedy Hospital $1,796.20**

**Emerg Phys, LLC $719.00**

**South Imaging $46.00**

**Southern Clinic $5,587.00**

**Radiology (Cervical MRI) $1,950.00**

**Big City Orthopaedics $1,649.16**

**North Hospital (2 MRIs) $8,582.00**

**North Radiology Assoc $673.00**

**Center Neurology P.C. $1,861.00**

**TOTAL: $25,007.36**

\*Please note that this amount will continue to increase as more records become available – including, but not limited to additional radiology bills, prescription bills, medical mileage receipts, and orthopaedic/urgent care bills for follow up visits.

**SETTLEMENT**

Our client is entitled to recover an amount of damages for her physical and mental pain and suffering - past, present and future. We are confident that a Folsom County jury would award her a fair amount of pain and suffering, specials, and permanent injury should this case proceed to trial. Ms. Brown is a very sympathetic figure and we know without a shadow of a doubt that a jury will like her and be able to relate to her and her on-going ordeal.

As stated earlier, **my client has authorized me to settle all claims against GEICO Insurance Company as UIM carrier for full policy limits of $30,000.00**. These claims include compensatory damages for pain and suffering, any special damages and medical expenses (past, present and future). This demand to GEICO Insurance is made pursuant to *Smoot v. State Farm Mutual Automobile Ins. Co.*, 299 F. 2d 525 (5th Cir. 1962) and 381 F. 2d 331 (5th Cir. 1967), and the Georgia Unliquidated Damages Act (O.C.G.A. § 51-21-14), which entitles our client to interest at the rate of 3% above prime as determined by the Federal Reserve on the amount of this demand if it is not paid within sixty (60) days.

§ O.C.G.A. 33-7-11(j) reads in part the following:

“If the insurer shall refuse to pay any insured any loss covered by this Code section within 60 days after a demand has been made by the insured and a finding has been made that such refusal was made in bad faith, the insurer shall be liable to the insured in addition to any recovery under this Code section for not more than **25 percent (“or $25,000… whichever is greater…” with the new GA UM law) of the recovery** **and all reasonable attorney's fees for the prosecution of the case under this Code section**. The question of bad faith, the amount of the penalty, if any, and the reasonable attorney's fees, if any, shall be determined in a separate action filed by the insured against the insurer after a judgment has been rendered against the uninsured motorist in the original tort action.”

If you have any questions regarding this matter, please do not hesitate to contact me directly at 770-265-0000. Thank you for your attention to this matter and I look forward to working on a swift and reasonable resolution in the coming days with you.

Very truly yours,

Attorney at Law

CC & Enclosures…