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November 14, 2024

Sent via Email: [REDACTED]@[REDACTED].com

[REDACTED] Insurance Inc.

P.O. Box [REDACTED]

[REDACTED], [REDACTED]
[REDACTED]

TIME SENSITIVE PRIVILEGED SETTLEMENT CORRESPONDENCE

RE: Your Insured: [REDACTED]

Our Client: [REDACTED]

Date of Loss: June 24, 2023

Claim Number: [REDACTED]

Location: [REDACTED]

Dear [REDACTED]:

As you are aware, our office represents the interests of [REDACTED] (referred to hereafter as "our client" and "[REDACTED]") related to the below-described incident. On June 24, 2023, [REDACTED] was attacked by a dog, owned by [REDACTED] (referred to hereafter as "your insured" and "[REDACTED]") at [REDACTED] in California.

This demand is a good faith attempt to address and resolve [REDACTED]'s claims in order to save valuable time and avoid the unnecessary and expensive litigation process. Any and all statements made in this settlement demand are for the sole purpose of settlement. Enclosed are medical treatments, bills, photographs, and damages.

1. FACTS AND LIABILITY

The facts of this incident are unequivocal. On June 24, 2023, [REDACTED] was walking around the [REDACTED] in California when an unleashed dog attacked her in front of her husband. The dog's owners were not present at the time of the incident, leaving [REDACTED] defenseless and terrified. The attack resulted in significant physical and emotional trauma for [REDACTED], who had no means to protect herself from the aggressive animal.

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Please find below an image depicting the location of the incident.

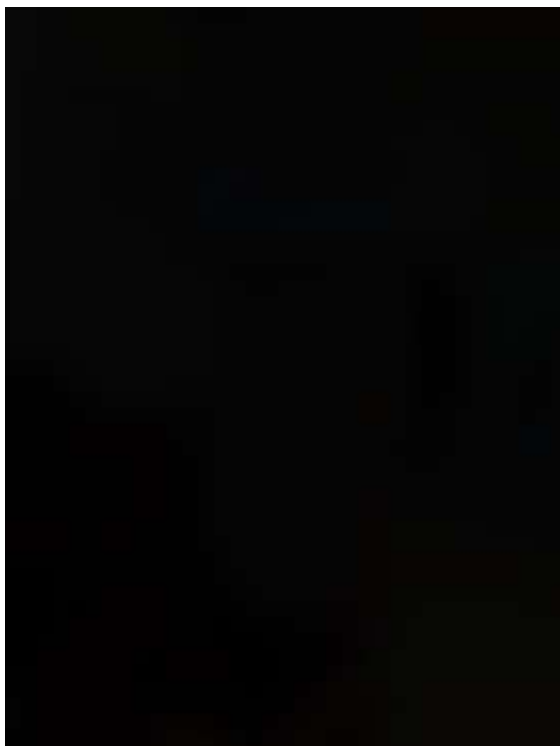
[INSERT INCIDENT LOCATION IMAGE HERE]

The liability in this case is clear. The defendant's failure to control their dog and ensure it was leashed constitutes a violation of California's strict liability dog bite statute, **California Civil Code § 3342**, which states, *"The owner of any dog is liable for the damages suffered by any person who is bitten by the dog while in a public place or lawfully in a private place."* This statute imposes liability on the dog owner regardless of the dog's previous behavior or the owner's knowledge of its viciousness. Furthermore, the defendant's negligence in not being present to supervise their dog directly led to the attack on [REDACTED]. The defendant breached their duty of care by failing to adhere to local leash laws, which mandate that dogs must be restrained in public areas to prevent such incidents. This breach of duty resulted in severe injuries to [REDACTED], for which the defendant is legally responsible.

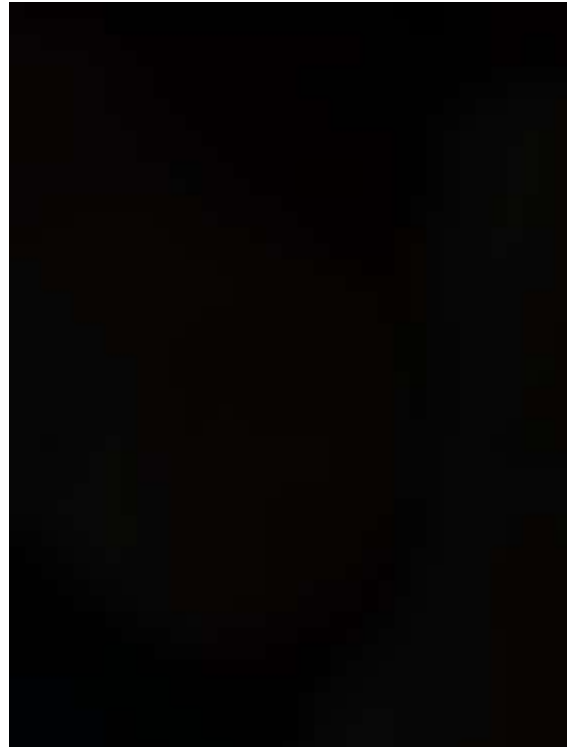
2. INJURY

2.1 DIAGNOSIS SUMMARY

We have enclosed all pertinent medical information regarding [REDACTED]'s injuries. These injuries were suffered as a direct and proximate result of the incident.



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The chart below represents a non-exhaustive summary of the injuries sustained by our client. As a consequence of your insured's negligent conduct, our client suffered and will continue to suffer injuries that are evidenced by the medical documentation enclosed to this demand. The accident was a substantial factor in causing our client serious injuries, pain and suffering continuing to the present date. Our client's injuries and treatment have been thoroughly documented in the medical records enclosed. A non-exhaustive summary of injuries sustained by our is included below. Please refer to the following table for a detailed list of the specific injuries and their corresponding ICD codes:

ICD Code	Injury/Diagnosis
F41.1	Generalized anxiety disorder
F40.218	Other animal type phobia
S51.852A	Open bite of left forearm, initial encounter
S30.1XXA	Contusion of abdominal wall, initial encounter

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S92.511A	Displaced fracture of proximal phalanx of right lesser toe(s), initial encounter for closed fracture
R22.41	Localized swelling, mass and lump, right lower limb

2.2 MEDICAL TREATMENT

Scripps Memorial Hospital La Jolla Prebys Cardiovascular Institute Emergency Department

On June 25, 2023, our client [REDACTED] presented at Scripps Memorial Hospital La Jolla Prebys Cardiovascular Institute Emergency Department with a chief complaint of an animal bite. Upon evaluation, [REDACTED] assessed a dog bite on the left forearm and a contusion of the abdominal wall. The pain and trauma from the attack were evident, causing significant distress to our client. The emergency department recommended symptomatic treatment at home, including tramadol for pain and Zofran for nausea, along with wound care using topical antibiotic ointment (*See Exhibit 2, "Scripps Memorial Hospital La Jolla Prebys Cardiovascular Institute Emergency Department - Medical Record"*).

On January 21, 2024, [REDACTED] returned to Scripps Memorial Hospital La Jolla Prebys Cardiovascular Institute Emergency Department with a chief complaint of a toe injury. Upon evaluation, [REDACTED] assessed an acute closed displaced fracture of the proximal phalanx of the lesser toe of the right foot, along with a contusion and injury to the right foot. The pain and discomfort were severe, impacting our client's mobility and daily activities. The emergency department recommended ibuprofen and Norco for pain management, Zofran for nausea, and a follow-up with a primary care physician and a referral to a foot specialist (*See Exhibit 2, "Scripps Memorial Hospital La Jolla Prebys Cardiovascular Institute Emergency Department - Medical Record"*).

Wave Professional Clinical Counselors, Inc

On September 20, 2023, our client [REDACTED] presented at WAVE Professional Clinical Counselors, Inc. with recent trauma, having been recently attacked by a dog. She reported a fear of dogs, anxiety about leaving home, and a range of distressing symptoms. As a result, [REDACTED], LMFT, assessed that [REDACTED] was experiencing significant anxiety, negative intrusive thoughts, excessive worrying, difficulty leaving home, disturbances in sleep and appetite, nightmares, difficulty concentrating, social isolation, and increased irritability. These symptoms were severely impacting her social and work productivity, negatively affecting her daily interactions and her ability to leave home.

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██████████ recommended weekly sessions to help ██████████ develop coping skills for her anxiety, process the trauma from the recent attack, and manage her new phobia of dogs. Continued treatment was advised to reduce symptoms, stabilize her condition, manage chronic symptoms, improve overall functioning, maintain progress, and prevent the need for higher-level care.

██████████'s follow-up meetings with ██████████ included regular weekly sessions. These sessions focused on addressing her anxiety, processing the trauma, and working on her phobia of dogs. The consistent therapy aimed to help her regain a sense of normalcy and improve her ability to function in daily life. (*See Exhibit 1, "WAVE Professional Clinical Counselors, Inc - Medical Record"*)

3. DAMAGES

3.1 MEDICAL EXPENSES

Past Medical Expenses

In order to recover for past medical expenses, the claimant needs only to prove that the amount of each claimed expense was reasonable, that the services or supplies for which such expenses are claimed were actually given and were reasonably necessary in the diagnosis or treatment of the injury, and that the condition which necessitated the expenses was a proximate result of the injury caused by the tortfeasor.

We have enclosed the following copies of our client's interim medical bills to date. This list is not final, as due to the continuing nature of our client's injuries other medical expenses may be incurred hereafter:

Facility	Dates	Total Billed	Total Adjusted	Total Due
WAVE Professional Clinical Counselors, Inc	Sep 20, 2020	\$225.00	\$0.00	\$225.00
Scripps Memorial Hospital La Jolla Prebys	Jun 25, 2023 - Apr 10, 2024	\$13,236.45	\$5,630.48	\$7,605.97

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Cardiovascular Institute Emergency Department				
	<u>TOTAL</u>	\$13,461.45	\$5,630.48	\$7,830.97

Future Medical Expenses

██████████ was 41 years old at the time of the dog bite incident. According to the average life expectancy for women in the United States, ██████████ is projected to live another 41.2 years, suggesting a significant portion of her life still lies ahead. The legal system is designed to ensure that in the case of permanent injuries, compensation covers the entirety of the injured party's lifetime, providing essential support for their ongoing health and recovery.

██████████ will require extensive future medical care to manage and mitigate the long-term effects of her injuries. This care will include regular visits to specialists, ongoing physical therapy, and possibly surgical interventions to address complications. Additionally, she may need assistive devices and modifications to her living environment to ensure safety and mobility. Pain management strategies, including medications and possibly alternative therapies, will be essential to improve her quality of life. The projected costs for this future medical care are significant and must be considered in any settlement to ensure ██████████ receives the necessary treatment to recover as fully as possible. The table below shows the expenses that ██████████ will incur.

Procedure	Amount
Weekly psychotherapy sessions	\$\$
follow-up with primary care physician	\$\$
referral to foot specialist	\$\$
<u>TOTAL</u>	\$\$

3.2 PAIN AND SUFFERING

Following the incident, ██████████ experienced significant physical and emotional trauma that has severely impacted her daily life. The dog attack resulted in a painful bite on her left forearm and a contusion on her abdominal wall, necessitating emergency medical treatment and ongoing wound care. The physical pain from these injuries has made it difficult for

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██████████ to perform basic tasks such as bathing, cooking, and other daily activities, leading to a loss of independence and increased reliance on others for assistance. Additionally, the psychological impact of the attack has been profound. ██████████ now suffers from anxiety, fear of dogs, and difficulty leaving her home, as documented by her therapist, ██████████. These symptoms have led to social isolation, disturbances in sleep and appetite, nightmares, and difficulty concentrating, all of which have negatively affected her social interactions and overall quality of life. The emotional distress and mental anguish experienced by ██████████ are consistent with the elements of pain and suffering as recognized by California courts, which include not only physical pain but also emotional and psychological suffering such as anxiety, worry, and social isolation (**California Civil Jury Instructions (CACI) No. 3905A**). The ongoing need for psychotherapy to manage these symptoms further underscores the severity of her suffering. The impact on ██████████'s life is substantial, and the compensation for pain and suffering in this case is justified by the significant and lasting detriment she has endured. The value for pain and suffering has been included in the claim as **\$\$**.

3.3 LOSS OF EARNINGS

As a result of the dog attack on June 24, 2023, ██████████ sustained injuries to her hands that rendered her unable to work for two weeks. During this period, she was unable to type or use a computer, which are essential functions of her job. Consequently, ██████████ experienced a significant loss of income, amounting to **\$5,000**. This loss of earnings has had a substantial impact on her financial stability, causing undue stress and hardship.

3.4 SUMMARY OF DAMAGES

Damage	Amount
Past Medical Expenses	\$7,830.97
Future Medical Expenses	\$\$
Pain And Suffering	\$\$
Loss of Wages	\$5,000.00
<u>TOTAL</u>	\$\$

4. DEMAND TO SETTLE

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In an effort to amicably resolve this matter, our client, [REDACTED], has authorized us to extend an offer to accept \$\$ as **FULL AND FINAL SETTLEMENT OF HER ALL CLAIMS**. The incident in question, where [REDACTED] was attacked by an unleashed dog in a public park, clearly establishes liability on the part of the dog owner. The injuries sustained by [REDACTED], both physical and emotional, are significant and have resulted in substantial medical expenses, pain, and suffering. Given the clear liability and the extent of the damages, we believe this settlement offer is reasonable and fair.

California law supports the liability of dog owners in cases of unprovoked attacks. In the case of **Priebe v. Nelson**, the California Court of Appeal held that dog owners are strictly liable for injuries caused by their dogs, regardless of the owner's knowledge of the dog's viciousness **Priebe v. Nelson, 39 Cal. 4th 1112 (2006)**. This precedent underscores the responsibility of the dog owner in this case and the necessity for a prompt and fair settlement. Additionally, in **Johnson v. McMahan**, the court reaffirmed that dog owners are liable for damages caused by their pets, emphasizing the importance of controlling animals in public spaces **Johnson v. McMahan, 68 Cal. App. 4th 173 (1998)**.

Should this matter not be resolved within the policy limits, we are prepared to proceed with obtaining a judgment against the insured. This could potentially result in a direct action against the insurer for bad faith refusal to settle within policy limits. The case of **Comunale v. Traders & General Ins. Co.** established that an insurer's failure to accept a reasonable settlement offer can result in liability for the entire judgment, even if it exceeds policy limits **Comunale v. Traders & General Ins. Co., 50 Cal. 2d 654 (1958)**. This precedent highlights the insurer's duty to act in good faith and underscores the potential consequences of failing to settle this claim promptly.

We appreciate your attention to this matter and urge you to consider the significant legal and financial implications of not settling within the policy limits. We expect the response to this letter by **5:00 P.M. on December 14, 2024**. We ask that this letter is shared with all decisionmakers and insurance companies.

Thank you for your consideration in this matter. We look forward to your prompt response.
Sincerely,

Amitai Erfanian
amitai@mylawfirm.ai

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Exhibit No.	Description	Page No.
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2	Scripps Memorial Hospital La Jolla Prebys Cardiovascular Institute Emergency Department - Medical Record	16 - 139
3	WAVE Professional Clinical Counselors, Inc - Medical Bill	140 - 141
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