

Atlanta Plaza
950 East Paces Ferry Road
Suite 2110
Atlanta, GA 30326

October 24, 2013

Via Federal Express

Settlement Demand

Mr. Bruce Grey

Farmington Insurance Company
1400 Opal Drive
Downers, IL 60515

Re: *My Client* : *Mr. Marcus Cline*
 Date of Collision : *March 12, 2013*
 Your Insured : *Mr. Robert D. Wright*
 Claim No. : *45-9865-DG*

Dear Bruce:

As you know, my law firm has been retained to represent Mr. Marcus Cline, a resident of Georgia, in connection with serious injuries he sustained from a hit and run collision in Chicago, Illinois on March 12, 2013. The at-fault driver, Mr. Robert D. Wright, is a Farmington insured.

This letter and the associated exhibits shall serve as my client's pre-suit demand for the settlement of his claims.¹

LIABILITY

¹ I have included herewith a DVD that contains the relevant medical records, bills, and wreck report. In addition, we have provided some of the key documents in hard copy, attached to the back of this letter.

Liability in this case is clear and the facts are likely to outrage a jury.² As noted above, on March 12, 2013, around 9:00 a.m., Mr. Wright hit Marcus while he was in the crosswalk and then fled. As the collision report reflects, the wreck was classified as a “hit and run” and the “offender was caught after monitoring a flash message with [the] vehicle’s description.” Mr. Wright admitted to the responding police officer that he had struck Marcus with his car.

As Marcus was in the crosswalk, at the last second, he saw Mr. Wright’s car and knew that he was about to be hit. Soon thereafter, he was hit by the front end of the vehicle and lost consciousness as a result of his head striking the pavement. After regaining consciousness, Marcus could hear voices all around him discussing the collision and the fact that the driver had fled the scene. He felt a tremendous amount of wetness on his neck, which he later learned was blood. A bystander came over to Marcus and told him that he was going to put his wedding ring into his pocket before EMS took him away. Marcus thought that comment was odd, but then realized that his left ring finger was completely disjointed and fractured. His wedding ring had flown off of his hand during the impact and landed several feet away from his body.³

Marcus’ memory is limited after that, but he does recall being loaded onto the backboard, placed in an ambulance, and taken to Northwestern. As evidenced in the records, he complained of knee pain immediately. You have the records and can see the testing to which Marcus was subjected at the hospital. Marcus returned to Atlanta on crutches and, as detailed below, would soon begin a long rehabilitation from his injuries.

MARCUS CLINE BEFORE THE COLLISION

Any jury seated in this case is going to immensely like Marcus. I have had the pleasure of getting to know him over the last several years and can state, without hesitation, that he is one of the nicest, most sincere people I have met and represented in over a decade of law practice.

Marcus is a labor and employment lawyer in Atlanta, who focuses his law practice on assisting people who have been discriminated against in the workplace. Marcus’ wife, Stacey, is an in-house lawyer employed by The Home Depot. Both individuals will make outstanding witnesses in Cook County, Illinois.

In March of this year, Marcus traveled to Chicago to visit his sister with whom he is close and who, at the time, lived in the City. Marcus was en route to meet a friend (who also lived in Chicago) for breakfast when your insured hit him in the crosswalk and then fled the scene.

INJURIES

² We will obviously investigate the propriety of a punitive damage claim and award under the facts of this case.

³ Marcus still cannot wear his wedding ring due to the swelling on the finger. Unfortunately, his orthopedic surgeon advised that this condition may persist for another year.

Marcus sustained numerous injuries as a result of this collision. First, the EMS records note that his fourth finger on his left hand was fractured (an avulsion fracture) and a hematoma was found on the back of his head (evidencing a significant head strike on the ground). Marcus was taken to Northwestern, where he underwent extensive evaluation. First, his finger required a painful procedure to maneuver it back into place. Then, it was placed in a splint for quite some time. Next, Marcus complained of left knee pain. He was unable to perform certain knee exercises and was therefore instructed to follow up with an orthopedic surgeon within one week.

As instructed, Marcus presented to an orthopedic surgeon, Brandon Milling, M.D. (an Emory physician) on March 13, 2013. You have the records and, therefore, I will not belabor the course of treatment. Suffice it to say, the collision resulted in what can fairly be described as a catastrophic injury to his knee.

Marcus suffered complete ruptures to his anterior cruciate ligament and medical collateral ligament, as well as damage to his meniscus. All of the injuries were objectively verified by MRI on March 15, 2013—three days after the wreck at issue. I will not offer extended commentary on the devastating affect that a total knee injury has on an individual. Derrick Rose, star of the Chicago Bulls, has had a nationally publicized and well-chronicled year-long rehabilitative effort in an attempt to recover from an ACL injury and surgery. I think that it is safe to say that the citizens of Chicago are all too familiar with this sort of knee injury.

On April 2, 2013, Sam Levine, M.D., a surgeon at Emory, operated on Marcus for a “complete left knee anterior cruciate ligament rupture,” a “left knee medical collateral ligament rupture,” and a “chondral defect trochlea.” Marcus then presented for the countless follow-up visits and rehabilitation sessions that you would expect from a knee injury of this severity.⁴

Next, soon after the collision, Marcus began feeling anxious, impatient, he had difficulty concentrating, difficulty with multi-tasking, and he suffered headaches. In June 2013, Gavin Fleming, M.D., a neurologist at Emory, diagnosed Marcus with a closed head / traumatic brain injury. Dr. Fleming ordered an MRI for Marcus, which was performed on July 11, 2013. The results of the MRI revealed objective evidence of the brain injury suspected by Dr. Fleming. Specifically, petechial hemorrhagic contusions were noted on the MRI, which Dr. Fleming correlated to an axonal shear brain injury. Dr. Fleming prescribed Lexapro in an effort to manage the symptoms of the brain injury. Marcus has returned to Dr. Fleming for additional evaluation and he is still treating with him in connection with his brain injury.

These are the sorts of injuries that are objective, significant, and easy to explain to a jury.

THE EFFECTS OF THE INJURIES ON MARCUS & STACEY

Finger

⁴ Marcus has had to attend more than 35 physical therapy sessions, most of which have taken him away from his law practice.

While Marcus' finger fracture may seem minor when compared to his brain and knee injuries, the impact upon Marcus' life was not trivial. As a litigator, Marcus spends much of his time working in the office, typing letters and briefs for court proceedings. His finger injury severely limited his ability to do work-related tasks through July 2013.

Missed vacation

Again, much like the finger injury, when viewed in the content of a major knee and brain injury, a missed vacation may seem relatively minor; however, it was significant to Marcus and his family. Due to his injuries, Marcus and Stacey were forced to miss a trip to Costa Rica, for which they had already purchased tickets. These are the sorts of memories that make up the fabric of life and we think juries understand that concept.

Physical Fitness

Prior to this collision, Marcus had committed himself to physical fitness and he has objective evidence that supports that notion.

In 2012, Marcus had reached the highest weight of his life and he realized that he did not want that trend to continue. Therefore, he decided to get into better shape. Between July 2012 and February 2013 Marcus lost fifty-five pounds.

In the months and weeks prior to the collision, he exercised for an hour a day, five to six times per week. At the beginning of 2013, Marcus and his sister-in-law made a pact that they would complete a 5k race every month in 2013 as a motivator for both of them to continue to lose weight. He ran the Commitment Day Run 5k on January 1st 2013, the Marietta Mardi Gras 5k on February 9th, 2013, and was scheduled to run the St. Patrick's Day 5k on March 16th, 2013. Marcus could not run that race because of this collision and the resulting injuries. Marcus was also registered to participate in the Peachtree Road Race 10k on July 4, 2013, which he also could not run. In addition to exercising at the gym, Marcus was a regular tennis player. He has played tennis on USTA teams that have competed in city, state, regional, and national championships. For the foreseeable future, Marcus can no longer play tennis.

Marcus' commitment to fitness has not waived, but he has been dealt a major setback because of the injuries resulting from this collision.

Walking, Driving, and Working

As a result of the collision, Marcus was unable to walk without assistance from March 12th until May 21st. During that time, he required crutches and a cane, as well as a knee immobilizer. After May 21st, he started walking on his own, but still had great difficulty with

stairs and could not walk for more than a few hundred yards without feeling fatigue in the leg and knee. Due to both the ACL and the MCL surgeries, Marcus was not allowed to drive from April 1st until May 24th. This prevented him from going to his office for almost two months. Once he began driving, Marcus' knee would cause him pain. Until late August, Marcus was unable to sit at his desk in his office for more than a few hours due to knee pain and stiffness.

Need for Physical Therapy

Marcus required extensive physical therapy due to the major knee injuries and surgery. Therapy was taxing and disruptive on his life and law practice. Marcus could not drive himself to therapy until May 24th and had to rely on others for transportation. Once he was able to drive himself to therapy, the therapy sessions were still very disruptive to his work schedule.

Anxiety/Concentration/Inability to Focus

In 2011, well before this collision, Marcus was under a lot of stress. During that time period, his father was dying of cancer. As a result, Marcus suffered a panic attack. He began seeing a therapist for anxiety relating to this sad event. This condition soon subsided and was completely gone in July/August of 2012. Marcus never needed medication during this time. We have enclosed his pre and post collision pharmacy records so that you can verify the same.

After the collision at issue, and as a result of the brain injury, Marcus' anxiety returned in a debilitating way. Driving, being in crowds, going to the movies, standing in enclosed spaces, and multi-tasking became incredibly difficult for him. In addition, Marcus would just blank out and sometimes halt his speech in the middle of a conversation. He became angry very easily, as well as overly worried about things that were not significant. This anxiety, inability to focus, and inability to concentrate hampered Marcus' law practice for many months. He is currently on medication in an effort to treat the effects of the brain injury.⁵

To Marcus' credit, he sensed something was wrong and sought help. The head injury waxes and wanes, but is a continuing problem for Marcus. Because of the foregoing issues, he gave up at least two cases and declined to take on several additional matters. This resulted in a substantial loss of income that we will be able to quantify at trial.

Finally, Marcus' knee and brain injury have affected his wife, substantially. Stacey is tremendously supportive of her husband, but this collision and her husband's resulting injuries have caused her substantial mental anguish and inconvenience.

⁵ You may notice that Dr. Fleming (the neurologist) has an entry in his October 2013 note that Marcus "has not yet started Lexapro." This is simply a typographical error from his computer-generated history/note. If you review the CVS Pharmacy records, you will see that Marcus received a prescription for this medication on June 28, 2013 and began taking it in August 2013.

DEMAND

In light of the foregoing, I am authorized to accept xxx hundred thousand dollars (\$xxx,000.00), in order to resolve all claims related to this incident and Marcus' injuries, including his: knee injuries/surgery, brain injury, finger fracture, lost wages, and medical bills. If Farmington does not accept this offer to settle by the deadline stated below, we will place this matter into suit in cooperation with local counsel⁶ and try this case to verdict.

Obviously, we are aware that there is over \$x,000,000.00 in available insurance coverage. This demand is a good faith effort to cut to the chase and see if this matter can be resolved efficiently, without suing Mr. Wright, and without having the facts of the case set forth in a very public forum.

This offer to resolve my client's claims will expire on November 22, 2013 at 5:00 p.m. (EST).

I would respectfully suggest that given the totality of the circumstances, as described above, this is a case that Farmington should resolve as offered by my client. I do not believe that this story will end well for your insured after the jury meets the Cline family, learns what Marcus and his wife have been through since this wreck, hears about the incident, and renders a verdict. As you likely know, given the dynamics of this case, Cook County, Illinois is not a favorable venue for your insured⁷.

We look forward to hearing from you.

Sincerely,

ANDREW E. GOLDNER

⁶ We have been in touch with two widely known, and well-regarded Chicago law firms who, as you would likely imagine, are eager to file this case and try it to verdict.

⁷ A simple 'Google' search will reveal that Cook County, Illinois is widely regarded as one of the most Plaintiff-friendly venues in the United States.

Enclosure: DVD w/ supporting material

cc: Marcus Cline, Esq.
Steven Wood, Esq. (personal counsel for Mr. Wright, w/ encl.; letter only via e-mail)