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ASSISTANT DISTRICT ATTORNEY

OFFICE OF
THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO

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February 14, 2008

Dear Mr. Higdon,

This letter is to confirm our conversation of January 29, 2008, and to follow up on my promise to answer your question about the viability of your case for a successful prosecution. When we spoke that day I told you that your letter, dated January 23, 2008, to District Attorney Bonnie Dumanis was directed to me for review. We also spoke about your earlier telephone conversation with one of our investigators, Phil Sowers, during which you briefed him on the facts of your case.

During our conversation you summarized your concerns about the refusal of Wawanesa Insurance Company to compensate you for water damage to your home. I understand from your background as a professional geologist that it may be too simplistic to say the damage was caused solely by a water pipe that was broken due to intruding roots from your neighbor's trees. You also advised me that there really is no way for the District Attorney's office to understand the true cause of the damage and the alleged criminal violations by Wawanesa unless we reviewed your extensive documentation of the circumstances surrounding the damage and the actions taken by the insurance company.

It is important for the District Attorney to address all complaints from people who feel victimized by those who violate the law. I want to assure you that we are concerned about the frustration many people feel when the District Attorney cannot move forward with a case. However, given the information you have shared with us, I conveyed to you that the matter appeared to be better addressed in a civil action. I know you disagreed with me on that point. So I then suggested that you could file a complaint with the Insurance Commissioner, Steve Poizner. Mr. Poizner and his staff have always expressed a desire to adequately represent people whose claims have not been addressed by insurance companies. You did say you were planning on doing so, but you still wanted the District Attorney to investigate and file criminal charges.

As you know from your former work as a peace officer, law enforcement typically investigates claims of criminal misconduct and then submits those matters to the District Attorney for review. This avenue is available to you if you choose to contact the local law enforcement agency that has jurisdiction over the case. That case could then, in the discretion of law enforcement, be delivered to us for our review. Your request that the District Attorney review the case was prompted by your concern that law enforcement does not have the time to peruse the extensive documentation you have compiled. I understand your concern. However, the District Attorney does not have sufficient staff to conduct an investigation on a case of this type. While our Insurance Fraud Division does employ investigators who review cases, this division is funded through grants from the state of California. The Insurance Fraud Division's criteria for taking a case, as delineated by these grants, can be somewhat limited. In fact, the type of case you are

involved in simply does not fit within these criteria. I have contacted our Economic Crimes Division regarding your matter. They typically review only cases submitted to them by law enforcement. The chief of that division also expressed regret that he does not have sufficient staff available to handle the investigation of your case.

It is the position of the District Attorney that in order for you to have this matter reviewed for possible criminal violations of the law please consider directing your future correspondence to the Department of Insurance and/or the law enforcement agency in the area where this incident occurred. The Department of Insurance may initiate its own investigation. Your local law enforcement agency will only submit the case to us if they conduct an investigation and determine that the matter warrants a criminal prosecution.

Sincerely,

DAVID. J. LATTUCA, Chief
Insurance Fraud Division