Mr. Marco Ramirez

101 Swine Court

Lynchburg, VA 24502

(555) 123-4567

April 2, 2010

Mr. Kajima Saki

1000 Tokyo Blvd.

Lynchburg, VA 24501

CONFIDENTIAL SETTLEMENT COMMUNICATION

Re: Spark v. Yoshi Sato d.b.a. Japan Rocket Manufacturers, Civil Action No. 6:09CV00082.

Dear Mr. Saki:

I represent Mr. Mark Spark in the lawsuit he has recently filed against your client in which he seeks damages for the severe injuries to his left hand. He is understandably anxious to seek full recovery under the law following the complete inability to use his left hand. However, to avoid protracted litigation, my client is willing to allow me to explore settlement possibilities. My client has authorized me to make the following offer: he will agree to dismiss this suit against your client if it will remit payment in the sum of $70,000. This offer will remain open until 5:00 p.m. on April 9, 2010. This letter is intended as a confidential settlement communication pursuant to Rule 408 of the Federal Rules of Evidence. As such, it will not be admissible in the above proceeding, or any other proceeding, for any purpose.

As you are aware, my client’s hand was severely injured due to a negligently manufactured firework by Japan Rocket Manufacturers (“JRM”). Although your client knew that firework safety standards require bottle rockets to have fuses that are at least four inches in length, it nevertheless manufactured fireworks with fuses less than the required four inches. Thereby breaching its duty to customers. Its actions of failing to comply with firework safety standards is even more troublesome in light of the fact that it placed some four million fireworks into the stream of commerce. Moreover, your client failed to comply with firework safety standards during the entire time is shipped fireworks into the United States. Mr. Spark severely injured his hand completely due to the negligently manufactured firework by JRM.

Under Virginia law, JRM is liable for Mr. Spark’s injury under the doctrine of product liability. Virginia courts have held that a deficiency or imperfection must render the product unreasonably dangerous for its intended use or for reasonably foreseeable uses. *See*, *e.g.*, *Southern States Co-op. Inc. v. Doggett*, 233 Va. 650, 656-57, 292 S.E.2d 331, 335 (1982); *Matthews v. Ford Motor Co.*, 479 F.2d 399, 400 (4th Cir. 1973).

Here, a firework by itself is an inherently dangerous object. Coupled with a firework being negligently manufactured it is not only foreseeable, but expected that the firework would cause injuries. JRM knew firework safety guidelines, as it has been in the business of selling fireworks for over forty years, and its failure to adhere to safety guidelines made an already dangerous object, life threatening. In addition, Mr. Spark used the firework for its sole intended purpose. He lit the firework and but for the negligently manufactured fuse, the severe injuries to his left hand would not have occurred.

Along with an imperfection rendering the product unreasonably dangerous, Virginia law requires proof that an injury was foreseeable under the product liability doctrine. Virginia courts have held that a reasonable foreseeable use resulting in injury is sufficient to show that the product is dangerous. *See*, e.g.*, White Consol Industry, Inc. v. Swiney*, 237 Va. 23, 27-28, 376 S.E.2d 283, 285-86 (1989).

Here, Mr. Spark purchased fireworks every year for the past twelve years. He had extensive experience in using fireworks and had full confidence in the fireworks he purchased as he had bought them from the same retailer, year after year. Mr. Spark’s injury resulted directly from the negligently manufactured firework by your client. Mr. Spark intended to use the fireworks in the same foreseeable way he had used them for the past decade. The only difference from the firework Mr. Spark used in this case as opposed to the fireworks he used in the past, was JRM’s lack of adherence to firework safety standards pertaining to bottle rocket fuses. The resulting injury to Mr. Spark’s hand itself is “sufficient to show that the product is dangerous.” *Id*.

JRM’s liability under Virginia law is clear. If this case is tried, the jury will not be focused on your client’s negligence, but on the amount of damages to award a severely injured victim. After evaluating Virginia law, I think you will agree that our $70,000 settlement offer is more than reasonable.

Our offer will remain open until 5:00 p.m. on April 9, 2010. If I do not hear from you by then, I will be in touch with you to schedule depositions.

Sincerely,

Marco Ramirez