

28.



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
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2009-0097 Claim Claim Report

Sook Ja Kim Notice of Claim regarding vehicle damage allegedly sustained at the intersection of W. Beloit Rd. and S. Buchanan Pl. on December 23, 2008.

Introduced: 2/17/2009

Controlling Body: Administration & Finance Committee

COMMITTEE RECOMMENDATION

Denied

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
APR 02 2009			Barczak				
			Czaplewski				
			Kopplin	✓			
			Lajsic	✓			
			Narlock	✓			
		X	Reinke	✓			
			Roadt				
			Sengstock				
			Vitale	✓			
		Weigel					
		TOTAL		5	-		

SIGNATURE OF COMMITTEE MEMBER

Kurt Kozal
 Chair Vice-Chair Member

COMMON COUNCIL ACTION

Denied

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
APR 07 2009			Barczak				✓
			Czaplewski	✓			
			Kopplin	✓			
			Lajsic	✓			
			Narlock	✓			
			Reinke	✓			
			Roadt	✓			
			Sengstock	✓			
			Vitale	✓			
		Weigel	✓				
		TOTAL		9	-		1



March 20, 2009



OFFICE OF THE CITY ATTORNEY

Common Council
City of West Allis

Scott E. Post
City Attorney

Sheryl L. Kuhary
Jeffrey J. Warchol
Jenna R. Merten
Assistant City Attorneys

RE: City Attorney's Report of Claim

Dear Council Members:

The enclosed claim has been referred to this office in accordance with Section 3.05 (8) of the Revised Municipal Code. This office has examined the facts of the claim and the applicable law. Our Opinion regarding liability is as follows:

It is the recommendation of this office that the following claim be denied:

Sook Ja Kim - Amount: \$1,063.50

This is a claim for property damage to the claimant's vehicle on December 23rd, 2008, at the intersection of West Beloit Road and South Buchanan Place in the City of West Allis. At said time and place, the claimant's vehicle, while heading north on Buchanan Place collided with another vehicle heading westbound on Beloit Road while the claimant was attempting to make a left hand turn to proceed westbound on Beloit Road. Due to the accident, the claimant was issued a traffic citation by the City of West Allis Police Department for failure to yield the right-of-way at an uncontrolled intersection. Both vehicles involved in the accident incurred damages as a result of the collision, while it did not appear from the reports that either party suffered personal injuries. The claimant's claim, filed against the City on January 30th, 2009, states that the cause of the accident was the fault of the City for its failure to remove the snow piled up at the intersection thus blocking the claimant's vision making it impossible for her to safely cross the intersection or make a left hand turn onto West Beloit Road. The claimant is seeking the cost to repair her vehicle as a result of the accident.

Our investigation into this claim indicated that there is no basis for holding the City negligent in this case. While it is true that the snow was piled high at the intersection, this does not relieve motorists of having to proceed with caution while negotiating around said snow banks. All municipalities have to deal with the issue of piled up snow at intersections during the winter based on the amount of snowfall in any given year. Motorists simply need to exercise more patience and caution when traveling through snow blocked intersections in the winter. The City simply did not create a hazardous condition at the intersection that other motorists were unable to travel around. Rather, the piled up snow made the intersection more dangerous than normal requiring motorists to use additional caution and keep a proper look out at all times, which was not done by the claimant. Thus, the City is not legally liable for the damages to claimant's vehicle in this case.

Based upon the above, it is the recommendation of the City Attorney's Office to deny this claim pursuant to the provisions of Wisconsin Municipal Claims Statute 893.80.

Respectfully submitted,


Jeffrey J. Warchol
Assistant City Attorney

JJW:da



CITY CLERK/TREASURER'S OFFICE
414/302-8200 or 414/302-8207 (Fax)
www.ci.west-allis.wi.us
Paul M. Ziehler
City Admin. Officer, Clerk/Treasurer
Monica Schultz
Assistant City Clerk
Rosemary West
Treasurer's Office Supervisor

February 5, 2009

Ms. Sook Ja Kim
2538 S. 71 Street
Milwaukee, WI 53219

Dear Ms. Kim:

This letter acknowledges receipt of your Notice of Claim regarding vehicle damage allegedly sustained at the intersection of West Beloit Road and South Buchanan Place on December 23, 2008.

The original document will be submitted to the Common Council at its meeting of February 17, 2009.

It is not anticipated that a decision regarding this matter will be made on this date. Generally, all communications are directed to the City Attorney's office for investigation. Common Council action regarding your communication will not be taken until the City Attorney's investigation is completed. Any questions you may have regarding this matter should be directed to their attention.

Sincerely,

Monica Schultz
Assistant City Clerk

/jml

cc: City Attorney

Sook Ja Kim
2538 S. 71st Street
Milwaukee, WI 53219

NOTICE OF CLAIM

vs.

City of West Allis
7525 W. Greenfield Ave.
West Allis, WI 53214

TO: Paul Ziehler
West Allis City Clerk
7525 W. Greenfield Ave.
West Allis, WI 53214

American Family Insurance Co.
P. O. Box 2927
Milwaukee, WI 53201

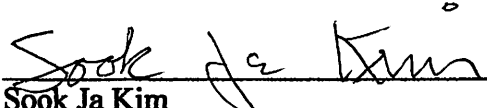
RE: Claim for damages and demand for relief
Pursuant to sec. 893.80 Wis. Stats.

This notice and demand is brought pursuant to Wisconsin Statute section 893.80 et seq.

The City of West Allis was careless and reckless in the removal of snow because they left large piles of snow that interfered with the view of motorists at the intersection of Buchanan Street and West Beloit Road. Ms. Kim found herself in an impossible situation because her vision was blocked by the snow. The underlying cause of this accident was the City of West Allis Public Works Department's failure to sufficiently remove snow.

The estimate from Heiser Chevrolet is \$1,063.51 and the estimate from Gordie Boucher Lincoln Mercury is \$986.74.

Dated: January 30, 2009



Sook Ja Kim
Phone: 414-543-4988

RECEIVED

JAN 30 2009

CITY OF WEST ALLIS
CLERK/TREASURER

Appearance Required <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes ¹ Date: 12/23/08		J769929 6		4 For Court Use Only	
PLACE: <u>CIRCUIT</u> <input checked="" type="checkbox"/> MUNICIPAL <input type="checkbox"/>		Time: 8:30 <input type="checkbox"/> am <input type="checkbox"/> pm		See back for courtpoint information	
5 Non-Individual Name (Last, First, MI) <u>Kim Soak JA</u>		Area Code - Telephone No. <u>414 532 27</u>		2 DEPOSIT BAIL 3 ESTIMATED Points for This Citation CASH CARD \$ <u>83.00</u> 4	
6 Street Address <u>2538 S 71st Milwaukee 53219</u>		Apartment No. Post Office - City State Zip Code		42 Agency Space	
7 Driver License Number/ID No. <u>K500-7803-3596-09</u>		State Exp. Yr. License Class <u>A B C D M O F H N P S T</u>		8 HazMat No. 9 US DOT No.	
13 Birth Date <u>5/16/33</u>		14 Sex <u>F</u> Race <u>AS</u> HT. <u>5'11"</u> WT. <u>160</u> Hair <u>Blk</u> Eyes <u>Brn</u>		15 Holds CDL Yes No <u>A B C D M O F H N P S T</u>	
19 Vehicle License Plate or VIN <u>781 SUC Au WI</u>		20 Plate Type State Exp. Yr. <u>09</u>		23 Vehicle Year, Make Type Color <u>01C New MAC 4 dr sil</u>	
26 Plaintiff <u>West Allis</u>		27 Defendant Violated Ordin. No. <u>10-01</u>		28 Adopting State Statute No. <u>346.18(1)</u>	
29 Description of Violation <u>Failure to yield right-of-way at uncontrolled Inter.</u>		30 Overweight		M 31 Actual Legal Over 32 Violation Zone: CONST. RAILROAD SCHOOL UTILITY	
34 Week Day <u>Tue</u>		35 Month - Day - Year <u>12/23/08</u>		36 Time <u>0933</u> AM <input type="checkbox"/> PM <input checked="" type="checkbox"/>	
39 On Hwy <u>1 W. Belmont RD</u>		Street Name		40 Estimated FT W N E MI S 41 From/At Hwy Street Name <u>S. Buchanan Rd</u>	
43 Print Officer Name <u>S. Wink</u>		44 Dept. <u>WAPD</u>		45 Officer ID No. <u>173</u>	
Wisconsin Uniform Citation MV4016 3/2003 (3) s.345.11 Wis. Stats.		49 Passenger Under 16: YES NO		46 Date Citation Served <u>12/23/08</u> Method By MAIL In PERSON 47 Accident Doc. No. <u>BRSP120</u> Severity FATAL PI PD	

THE MUNICIPAL COURT JUDGE OF THE ABOVE DATE WAS NOT INTERESTED IN SEEING ANY NEW NOTICE INFORMATION ABOUT THE ACCIDENT

Your case has been set for a Pre-Trial conference with the City Attorney on

12-23-08

3-4

, 2009

at 8:30 A.M. / 9:30 A.M. / 10:30 A.M.

IF YOU FAIL TO APPEAR AT THE PRE-TRIAL CONFERENCE A DEFAULT JUDGEMENT WILL BE ENTERED AGAINST YOU.

WEST ALLIS MUNICIPAL COURT
11301 WEST LINCOLN AVENUE
WEST ALLIS, WISCONSIN 53227



**West Allis
Police Department**

Date: January 4, 2009
To: SOOK JA KIM
From: OFFICER JESSICA WINK

Enclosed is citation #J769929 6, which is being issued to you for FAILING TO YIELD THE RIGHT A WAY AT AN UNCONTROLLED INTERSECTION.

You must either appear in court on the date listed on the citation or pay the deposit amount indicated in the upper right corner of the citation before the court date.

If you do not pay the fine, or appear in court on the date listed, a warrant will be issued for your arrest.

Sincerely,

LT. BYKOWSKI

OFFICER JESSICA WINK

POLICE OFFICER WINK DID NOT
HAVE ALL OF THE INFORMATION
IN HER ACCIDENT REPORT OF DATE
12-23-08 SEE ACCIDENT
RECONSTRUCTION AND NOTICE OF CLAIM

CCD09010577298D0601 08D

INS 02	63 - Liability Insurance Company UNITRIN-AUTO-AND-HOME-INSURANCE-CO		60 <input checked="" type="checkbox"/> Policy Holder Same As Owner
	61 - Policy Holder Last Name ZARZYNSKI		61 - Policy Holder First Name CATHERINE
	61 - Policy Holder Company		

School Bus

BUS 02	Bus Traveling to/from <input type="radio"/> To <input type="radio"/> From	School Name	Body Make	Seating Capacity
	School District Contracted With			

Diagram and Narrative

105 - PHOTOS BY

Drawings Not to Scale
Measurements Are Approximate

UNIT #2 WAS TRAVELING W/B ON W. BELOIT RD. PASSING W. BUCHANNAN PL. UNIT #1 WAS PROCEEDED N/B CROSSING E/B TRAFFIC ON W. BELOIT RD. TO PROCEED W/B ON W. BELOIT RD. UPON UNIT #1 ATTEMPTING TO COMPLETE A LEFT HAND TURN ONTO W. BELOIT RD. SHE STRUCK UNIT #2. UNIT #1 PROVIDED UNIT #2 WITH ALL OF HER INFORMATION BEFORE SHE HAD TO LEAVE THE SCENE.

Officer Information

OFFICER INFORMATION	125 - Officer Last Name WINK	125 - First Name JESSICA	125 - Middle Initial	131 - Officer ID 1865
	129 - Law Enforcement Agency No. 4060	130 - Law Enforcement Agency Name WEST ALLIS POLICE DEPARTMENT		
	126 - Law Enforcement Agency Address Street & Number 11301 WEST LINCOLN AVENUE			
	127 - City WEST ALLIS	127 - State WI	127 - Zip Code 53227	128 - Telephone Number (414) 302-8000 EXT.
	132 - Date Notified 12/23/2008	133 - Time Notified (Military Time) 0747	134 - Time Arrived (Military Time) 0820	135 - Date Of Report 12/29/2008
	Agency Accident Number A08122302	Police Number 08058633	19 - Special Study	
	18 - Agency Space			

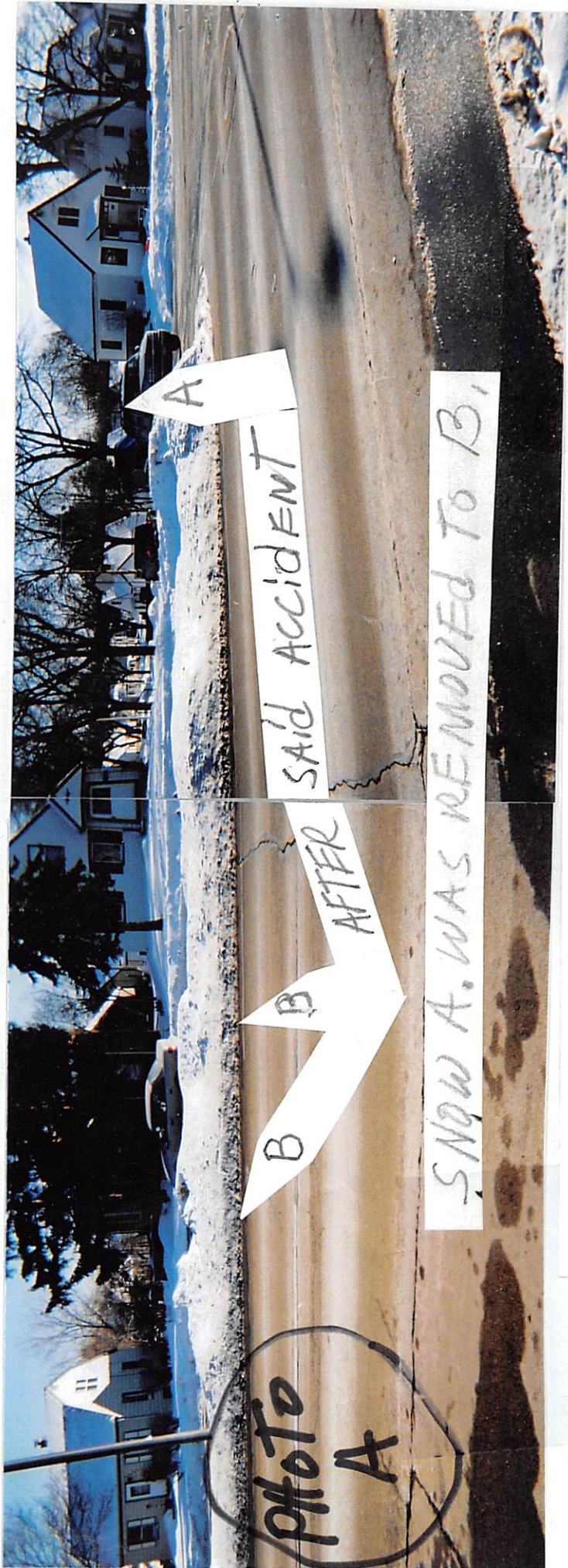


Photo A

B AFTER B

A

SAID ACCIDENT

SNOW A. WAS REMOVED TO B,

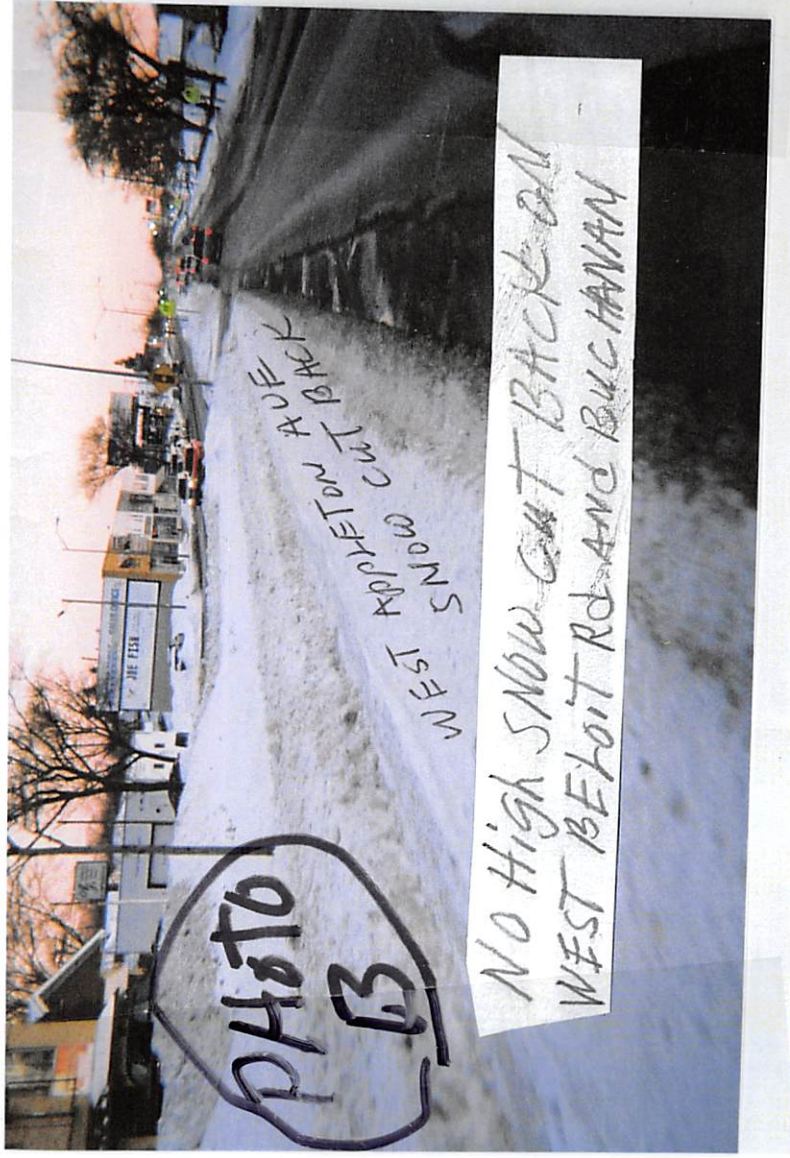


Photo B

APPROXIMATELY 100 FEET
WEST SNOW

NO HIGH SNOW CUT BACK ON
WEST BEHOIT RD AND BUCHANAN



4500
3F9

PHOTO
C



OVER FIVE FEET HIGH

High SNOW

PHOTO
D

THE ROOT CAUSE OF THIS ACCIDENT WAS THE CITY OF WESTALL'S PUBLIC WORKS DEPT did help to create UNACCEPTABLE driving conditions at the intersection of BUCHANAN AND WEST BELOIT RD. MISS KIM FOUND HERSELF IN AN IMPOSSIBLE SITUATION.

← SOUTH WEST BELOIT RD.

← BOULEVARD CUT BACK →

BUCHANAN NORTH WEST

DAY TIME AND LIGHT SNOW FALL
 TIME 7:35 AM
 DATE 12-23-08
 ACCIDENT RECONSTRUCTION

IMPOSSIBLE TO SEE AUTO 2

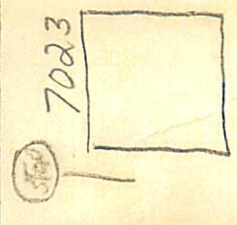
PARKING LANE

RIGHT DRIVING LANE

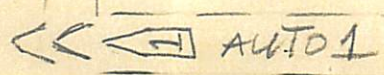
← AUTO 2 LEFT DRIVING LANE

← NO BOULEVARD CUT BACK 5 FT, HIGH SNOW BANK OVER

COULDN'T SEE OVER HIGH BANK



- 1-SEE PHOTO A
- 2-SEE PHOTO B
- 3-SEE PHOTO C
- 4. SEE PHOTO D



BUCHANAN NORTH WEST

7037

SOON JA NINA AUTO 1
 AMERICAN FAMILY INC, CO
 MARK KELLY

CLAIM-00651-46481222
 1-800-692-6326 EX 48545
 NORMAL DRIVING VISUAL HEIGHT 45 IN.
 15 INCHES OVER VISUAL CAPABILITY



OFFICE OF THE CITY ATTORNEY

Scott E. Post
City Attorney

Sheryl L. Kuhary
Jeffrey J. Warchol
Jenna R. Merten
Assistant City Attorneys

March 24, 2009

Common Council
City of West Allis

RE: City Attorney's Report of Claims/Lawsuits

Dear Council Members:

The enclosed claims/lawsuits have been referred to this office in accordance with Section 3.05(8) of the Revised Municipal Code. This office has examined the facts of each claim/lawsuit and the applicable law. Our Opinion regarding liability is attached to each claim/lawsuit.

The following claim/lawsuit has been paid and placed on file:

Patricia Corey/Artisan and Truckers Casualty Co. (\$5,377.80)

The following claim/lawsuit has been denied:

Sook Ja Kim (\$1,063.50)

Respectfully submitted,

Jeffrey J. Warchol
Assistant City Attorney

JJW:da
Enclosures

cc: Thomas E. Mann, CVMIC



NOTICE OF DISALLOWANCE OF CLAIM

April 10, 2009

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Sook Ja Kim
2538 South 71st Street
Milwaukee, WI 53219

Re: Your Claim Against the City of West Allis
Date of Loss: 12/23/08

Dear Ms. Kim:

At its meeting on April 7th, 2009, the Common Council of the City of West Allis considered your claim received on January 30th, 2009, regarding vehicle damages allegedly sustained at the intersection of West Beloit Road and South Buchanan Place, West Allis, Wisconsin and denied it in full.

Please be advised that no lawsuit may be brought on this claim against the City of West Allis or any of its officials, officers, agents or employees after six (6) months from the date of receipt of this letter.

Sincerely,

Paul M. Ziehler
City Administrative Officer
Clerk/Treasurer

PMZ:da
L:\jeff\claims\denialLtrs\ltr-denial-S Kim

cc: City Attorney's Office
City Clerk's Office

CITY ADMINISTRATIVE OFFICE

PAUL M. ZIEHLER
City Administrative Officer
Clerk/Treasurer

414/302-8294
414/302-8207 (Fax)

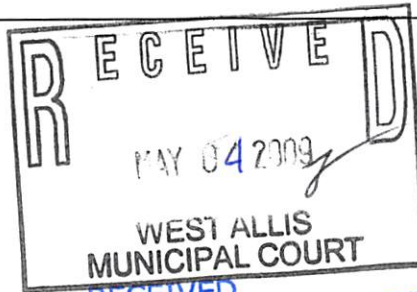
City Hall
7525 West Greenfield Avenue
West Allis, Wisconsin 53214

pziehler@ci.west-allis.wi.us
www.ci.west-allis.wi.us

City of West Allis
7525 W. Greenfield Ave.
West Allis, WI 53214

vs.

Sook Ja Kim
2538 S. 71st Street
Milwaukee, WI 53218



COUNTER CLAIM
Citation No. J769929 6

RECEIVED

RECEIVED

RECEIVED

MAY 4 2009

MAY 4 2009

MAY 4 2009

CITY OF WEST ALLIS MAYOR
CITY OF WEST ALLIS CAO

WEST ALLIS
CITY ATTORNEY

RECEIVED

RE: Counter Claim
Citation Number J769929 6

MAY 04 2009

CITY OF WEST ALLIS
CLERK/TREASURER

This counter Claim is brought against the City of West Allis that is arising from the negligence in the removal of snow.

At the intersection of Buchanan Place and West Beloit Road, the snow was piled high and completely blocking the view for the motorists. Furthermore, there was no snow cut back made for the motorists to be able to see the oncoming cars. On the day of 23rd of December, 2008, at 7:35 AM, Ms. Kim was on her way to work. When Ms. Kim came to the above stated intersection, Ms. Kim realized that the snow was completely blocking the view and totally impossible to see anything because the piled high snow. All Ms. Kim could do at this situation was carefully moving forward **inch by inch**.

The underlying cause of this accident was the City of West Allis Public Works Department's failure to sufficiently remove snow. It is absolutely "**Negligence**" and "**unsafe**" for any and all motorists.

The City of West Allis removed the snow after this accident.

I, Ms. Kim is requesting from the City of West Allis for the monetary relief for the damages caused by this accident to my car.

The damages to Ms. Kim's car is estimate at \$1,063.51 from Heiser Chevrolet. The second estimation from Gordie Boucher Lincoln Mercury is \$986.74.

Dated: May 4th, 2009

Sook Ja Kim
Phone: (414) 543-4988

City of West Allis
7525 W. Greenfield Ave.
West Allis, WI 53214

COUNTER CLAIM
Citation No. J769929 6

vs.

Sook Ja Kim
2538 S. 71st Street
Milwaukee, WI 53218

RECEIVED

MAY 4 2009 *gw*

CITY OF WEST ALLIS
MAYOR

RECEIVED

MAY 4 2009

CITY OF WEST ALLIS
CAO

RECEIVED

MAY 4 2009

WEST ALLIS
CITY ATTORNEY

RE: Counter Claim
Citation Number J769929 6

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Dated: May 4th, 2009


Sook Ja Kim
Phone: (414) 543-4988