

8.
24.



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
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2008-0347 Claim Claim Report

Brian Sweet communication regarding vehicle damage allegedly sustained on South69 Street and Becher Street on May 5, 2008.

Introduced: 5/20/2008

Controlling Body: Administration & Finance Committee

COMMITTEE RECOMMENDATION Deny

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
JUN 17 2008			Barczak				
			Czaplewski				
			Kopplin	✓			
			Lajsic	✓			
		X	Narlock	✓			
			Reinke	✓			
			Roadt				
			Sengstock				
			Vitale		✓		
		Weigel					
		TOTAL		5			—

SIGNATURE OF COMMITTEE MEMBER

Kyle Kopplin _____
Chair Vice-Chair Member

COMMON COUNCIL ACTION Denied

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
JUN 17 2008			Barczak	✓			
			Czaplewski	✓			
			Kopplin	✓			
			Lajsic	✓			
			Narlock	✓			
			Reinke	✓			
			Roadt	✓			
			Sengstock	✓			
			Vitale	✓			
		Weigel				✓	
		TOTAL		9			1



June 9, 2008

Common Council
City of West Allis

OFFICE OF THE CITY ATTORNEY

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 (6)(a) 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:

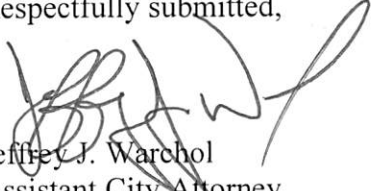
Brian Sweet - Amount: \$2,917.05

This is a claim for damages sustained to the claimant's motorcycle on May 5th, 2008, when the claimant struck a pothole at South 69th Street and West Becher Street in the City of West Allis, WI. The claimant obtained an estimate for repair of the motorcycle and filed a claim against the City on May 8th, 2008.

Our investigation into this claim indicated that there was no pothole at the location stated by the claimant in his complaint. It is possible that had there been a pothole at said location, City crews patched it sometime after the accident and prior to the public works report of May 20th, 2008. However, even in the event that there was a pothole struck by the claimant, the City is only responsible for a defect in the street if the City had knowledge of the defect prior to the accident and the City failed to repair the same in a reasonable amount of time. There is nothing in the record to indicate in this case that the City had any knowledge of a pothole at the location stated by the claimant prior to the accident.

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

May 13, 2008

Mr. Brian Sweet
2052 S. 69 Street
West Allis, WI 53219

Dear Mr. Sweet:

This letter acknowledges receipt of your communication regarding vehicle damage allegedly sustained at South 69 Street and Becher Street on May 5, 2008.

The original document will be submitted to the Common Council at its meeting of May 20, 2008.

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

/jl

cc: City Attorney

Brian Sweet
2052 S. 69th St.
West Allis, WI 53219

RECEIVED

MAY - 8 2008

CITY OF WEST ALLIS
CLERK/TREASURER

May 6, 2008

To Whom It May Concern:

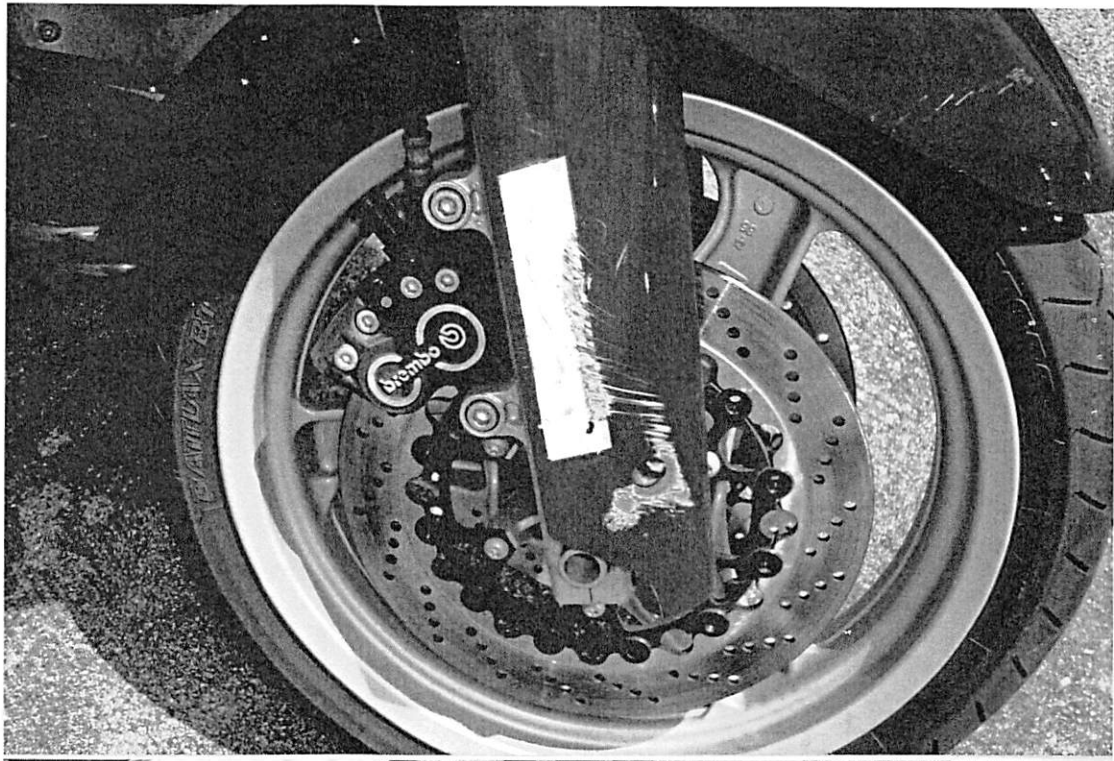
I am submitting a claim to the city for vehicle damage as a result of a pothole. The accident happened at approximately 6:30am on May 5th, 2008. The pothole in question is at the intersection of 69th St. and Beecher St. I am including pictures of the damage to my vehicle as well as a written estimate of the cost of repairs. The details of the accident are as follows:

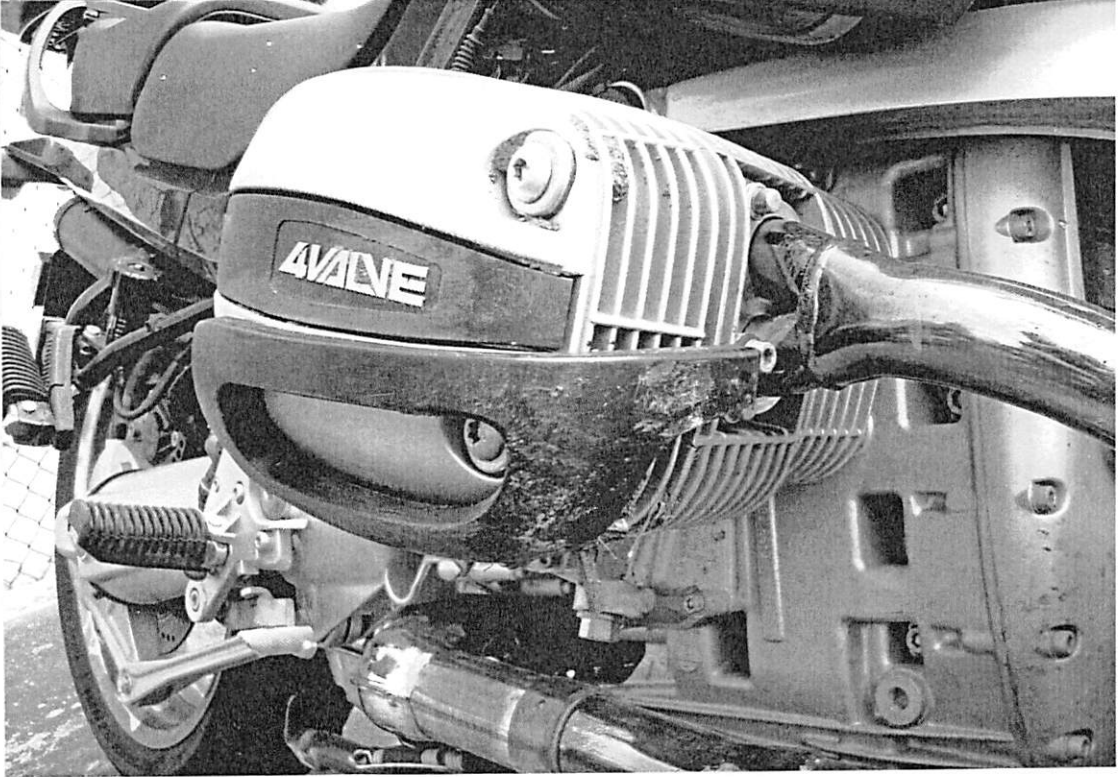
I left my alley traveling south and turned right onto Beecher St. I was heading west on Beecher St. approaching a left hand turn onto 69th St. traveling between 5-10mph. I maintained my speed into the turn when the front wheel of my motorcycle entered a pothole. The wheel turned suddenly and sharply to the left. I lost control of the motorcycle and attempted to stop. I was unable to regain control of the motorcycle and was headed for the curb. I hit the curb and the motorcycle and I fell over to the right. I rolled off the motorcycle without incident, experiencing only post-accident soreness.

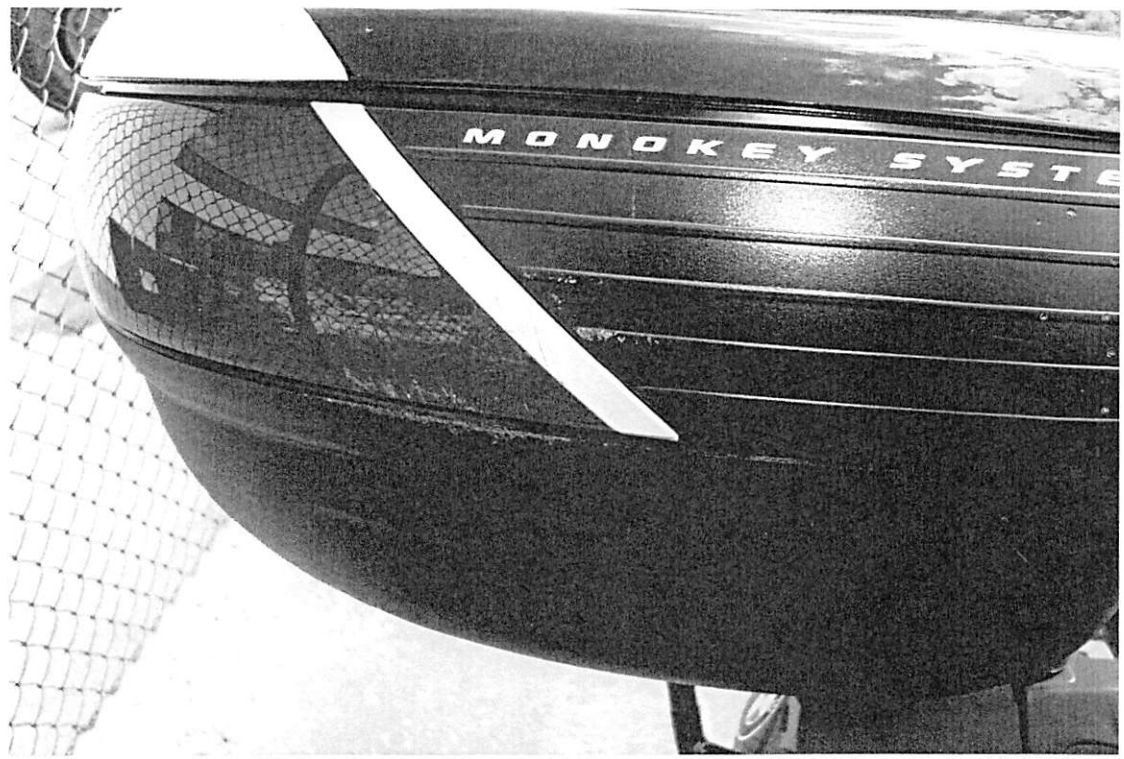
This accident happened as a direct result of the pothole and I believe the city is responsible for the repairs.



Brian Sweet







350-RW9S #64493

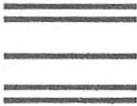
From: _____



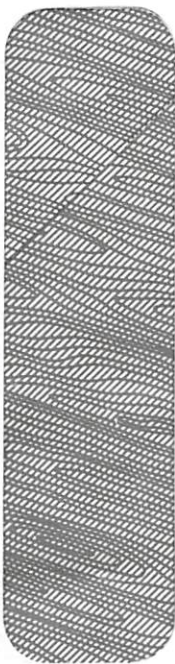
Brian G. Sweet

2052 S 69th St.
West Allis, WI 53219-1319

(414) 750-9556



PLACE
STAMP
HERE



BMW MOTORCYCLES OF MILWAUKEE
 7016 North 76th Street
 Milwaukee, WI 53223-5004
 (414) 358-2466

SERVICE ESTIMATE

R O for SWEET, BRIAN (5416867)
 2052 SOUTH 69TH STREET
 WEST ALLIS, WI 53219
 Home Phone 414-541-6867

Date Printed 5/ 5/08
 Date In 5/ 5/08
 Promised 5/ 5/08

Yr Make	Model	Color	Class	Plate #	VIN	Key Board#	Hrs/Odo
99 BMW	R1100RS	733RED	M	NQ521	WB10416A73ZC60332	C1	12697

Unit Name	Beaa/CC	Lngh/Cyl	H.P.	Engine Number	Key Number
	1100	2			

Job: ESTIMATE DAMAGES AND REPAIR COSTS

Yr: 99 Make: BMW Model: R1100RS Color: 733RED Class: M
 ESTIMATE DAMAGES AND REPAIR COSTS

Part #/Labor Code	Description	Src Cat	Tech	Hrs/Qty	Total
Parts Misc - 1	GIVI E52	ACC		1	382.00
63232305200	FLASHER RR. RHT. TEX	BM BHP		1	29.88
23411341575	SHIFT LEVER	BM BHP		1	106.88
46522335018	CENTER STAND	BM BHP		1	210.88
46612352119	LT COVER	BM BHP		1	120.88
46612352117	FRT MUDGUARD	BM BHP		1	286.99
46632352118	UPR TRM PNL	BM BHP		1	703.99
46632313000	WINDSHIELD	BM BHP		1	146.88
Misc - 9	LABOR	BLB		8	552.00
Misc - 10	LABOR ABS BLEED & CLEAR	BLB		3	207.00
63142306347	FRONT BRACKET	BM BHP		1	7.99
63141459035	REFLECTOR	BM BHP		1	6.99

Job Subtotal \$ 2,762.36

Job Breakdown ->	Parts	Labor	Sublet	Other	Total of all Jobs	
	2,762.36	.00	.00	.00	2,762.36	

Thank you for your business!

Before Tax Total 2,762.36
 Sales Tax 154.69
 Repair Order Total 2,917.05

TOTAL PARTS	TOTAL SUBLET	TOTAL OIL	TOTAL MATERIAL
<input type="checkbox"/> QTS. MOTOR OIL @			
<input type="checkbox"/> QTS. TRANS. OIL @			
<input type="checkbox"/> QTS. PRIM. OIL @			
SUBLET REPAIRS			
TOTAL PARTS			
TOTAL SUBLET			

THIS CUSTOMER IS ENTITLED TO INSPECT OR RE-ACCESSORY PARTS OR ACCESSORIES PLACED OR REMOVED BY THE SHOP

RECOMMENDATIONS

I HEREBY AUTHORIZE the above repair work to be done along with necessary materials. You and your employees may operate above vehicle for purposes of testing, inspection or delivery at my risk. An express mechanic's lien is acknowledged on above vehicle to secure the amount of repairs thereto. You will not be held responsible for loss or damage to vehicle or articles left in vehicle in case of fire, theft, accident or any other cause beyond your control or for any delays by unavailability of parts or delays in parts shipments by the supplier to transporter. I UNDERSTAND THAT ALL CHARGES ARE DUE WITHIN 30 DAYS FROM BILLING DATE. IF PAYMENT IN FULL IS NOT MADE BY THEN, I HEREBY AGREE TO PAY SIMPLE INTEREST AT THE RATE OF 1 1/2% PER MONTH (18% PER ANNUM) ON THE DECLINING UNPAID BALANCE UNTIL PAID IN FULL. I ACKNOWLEDGE RECEIPT OF A COPY OF THIS AGREEMENT.

1. I request an estimate in writing before you begin repairs.
 2. Please proceed with repairs, but call me before continuing if the price will exceed \$
 3. I do not want an estimate.
 Do you want the replaced parts you are entitled to? Yes No
 Call when vehicle is ready Yes No
 Payment will be made by: Cash Credit Card Change
 Motor vehicle repair prices are regulated by chapter ATCP 132, Wis. Adm. Code, administered by the Bureau of Consumer Protection, Wisconsin Dept. of Agriculture, Trade and Consumer Protection, P.O. Box 8911, Madison, WI 53708.

LABOR	69.00
PARTS	
SUBLET	
GAS, OIL	
SHOP SUPPLIES	
SUBTOTAL	69.00
SALES TAX	3.86
TOTAL AMOUNT	72.86

500 MILE ✓	LABOR ✓	CUSTOMER STATES	500 MILE ✓
COMPLETE INSPECTION			
CHANGE FORK OIL			
REPLACE FRONT TIRE			
REPLACE REAR TIRE			
REAR TIRE			
BALANCE TIRE			
REPACK WHEEL BEARINGS			
REPAIR FLAT TIRE			
REPLACE REAR CHAIN			
REPAIR CLUTCH			
TEST CHARGING SYSTEM			
REPAIR STARTER			
VALVE JOB			
BORE CYLINDERS			
SERVICE CALL			

I ALREADY PAID \$72.86 FOR THE DAMAGE ESTIMATE

MRS WERNERS WAMP TRUCKING

ESTIMATE DRAWN BY PERMITS 69.00 ✓

NAME: SWEET, BRIAN
 ADDRESS: 2052 SOUTH 69TH STREET
 CITY & STATE: WEST BURNING WISCONSIN 53219
 YEAR & MAKE: 1999 BMW R100RS
 LICENSE NO.: NO 521
 ADDITIONAL WORK AUTHORIZED BY: _____
 DATE: _____ TIME: _____
 NEW ESTIMATE NO. CALLED: _____
 NEW TOTAL ESTIMATE: _____

pd.c.c. Full
 5-5-08

THE KEY TO CONTOUR SERVICE

NOYKNAHT

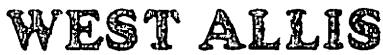
www.bmwmotorcyclesofmilwaukee.com



BMW Motorcycles of Milwaukee
 Milwaukee, WI 53223
 (414) 358-2466

7016 North 76th Street
 Milwaukee, WI 53223

5948



WEST ALLIS



OFFICE OF THE CITY ATTORNEY

Scott E. Post
City Attorney

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

June 10, 2008

Common Council
City of West Allis

RE: City Attorney's Report of Claims/Lawsuits

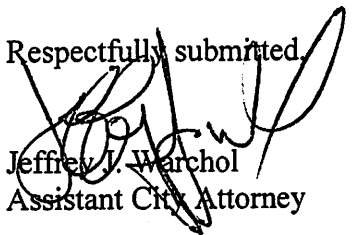
Dear Council Members:

The enclosed claims/lawsuits have been referred to this office in accordance with Section 3.05 (6)(a) 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.

It is the recommendation of this office that the following claims/lawsuits be denied:

Brian Sweet (\$2,917.05)
Churchill 111 Luxurious Limousine Service, Inc. (\$602.95)
Secura Insurance Company/John & Linda Rodriguez (\$5,500.00)

Respectfully submitted,



Jeffrey J. Warchol
Assistant City Attorney

JJW:da
Enclosures

cc: Thomas E. Mann, CVMIC



NOTICE OF DISALLOWANCE OF CLAIM

June 18, 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Brian Sweet
2052 South 69th Street
West Allis, WI 53219

Re: Your Claim Against the City of West Allis
Date of Loss: 5/5/08

Dear Mr. Sweet:

At its meeting on June 17th, 2008, the Common Council of the City of West Allis considered your claim received on May 8th, 2008, regarding vehicle damage allegedly sustained at West Becher Street and South 69th Street, 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-B Sweet

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