



MARTIN
LAW OFFICE, S.C.

7280 S. 13th St., Ste. 102 | Oak Creek, WI 53154
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January 9, 2019

West Allis City Clerk Steven A. Braatz, Jr.
Office of the City Clerk
City Hall, Room 108-110
7525 W. Greenfield. Ave.
West Allis, WI 53214

Re: Our Client: Charles Cleveland
Date/Injury: November 20, 2018

Dear Mr. Braatz :

We herein give notice of our retention and attorneys' lien, pursuant to sec. 757.36 Wis. Stats., on behalf of Charles Cleveland to make claim against the City of West Allis for personal injuries Charles Cleveland sustained on 11/20/18.

We hereby request, pursuant to sec. 904.12, Wis. Stat., that you immediately release a copy of any statement obtained by you from our client. **Any video recordings or photographs of the subject incident are essential to this claim; therefore, you are under a continuing obligation to preserve the same.** *Sentry Ins. v. Royal Ins. Co.*, 196 Wis. 2d 907, 918-919, 539 N.W.2d 911 (1995). Please contact the undersigned immediately relative to the existence or non-existence of any video recordings or photographs of the subject incident.

This is also to advise that any medical authorization or release of information signed by Charles Cleveland is hereby revoked.

There is also the possibility that a lien may be asserted in connection with our client's claims in this case. WE HEREBY PUT YOU ON NOTICE THAT WE WILL DEAL DIRECTLY WITH THE LIEN CARRIER and THAT NO SEPARATE CHECKS ARE TO BE CUT TO THE LIEN CARRIER WITHOUT OUR PRIOR WRITTEN APPROVAL. When and if we are able to amicably resolve this matter, we will insure that your interests are protected and that any necessary releases are signed.

As soon as we have obtained medical information and other pertinent information regarding this accident, we will forward same to you and will contact you to discuss this matter with a view toward an amicable disposition of the case.

Attorneys

Kevin R. Martin*
Michael J. Jassak*
Anthony J. Skemp*
Drew J. DeVinney

* Dual Board Certified
Civil Trial Specialist

RECEIVED

JAN 14 2019
CITY OF WEST ALLIS
CITY CLERK

Please provide us with the policy limits for all policies applicable to the above-referenced accident. Finally, kindly acknowledge our letter of retainer.

Sincerely,

MARTIN LAW OFFICE, S.C.

Electronically Signed by Drew J. DeVinney

Drew J. DeVinney
(414) 856-2670 (direct)
(414) 856-2677 (direct fax)
drew@martin-law-office.com

DJD/kp
Enclosure: Motor Vehicle Accident Report

1SL0549MJF
18-047529

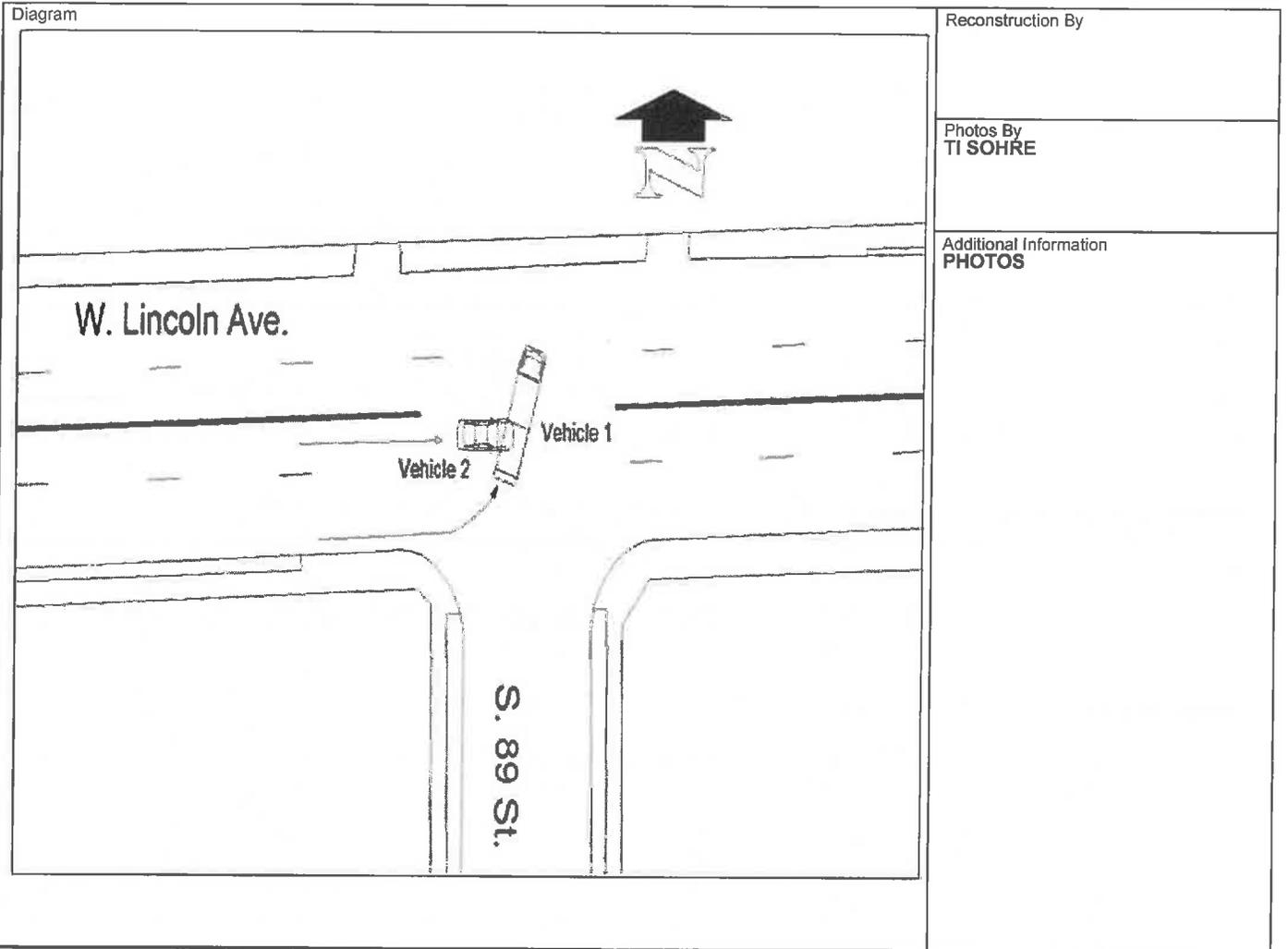
WISCONSIN MOTOR VEHICLE
CRASH REPORT

WEST ALLIS POLICE DEPARTMENT
11301 WEST LINCOLN AVENUE
WEST ALLIS, WI 53227
(414) 302-8000

1SL0549MJF

Document Number Override		Primary Crash Document #		Agency Crash Number		Investigating Officer/Deputy INVESTIGATOR C. SOHRE	
Crash Date 11/20/2018		Crash Time 07:38 AM		Date Arrived 11/20/2018		Time Arrived 07:45 AM	
Date Notified 11/20/2018		Time Notified 07:41 AM		Total Units 02		Total Injured 01	Total Killed 00
<input type="checkbox"/> On Emergency	<input type="checkbox"/> Hit and Run	<input checked="" type="checkbox"/> Lane Closure		<input type="checkbox"/> Work Zone		<input type="checkbox"/> Trailer or Towed	<input checked="" type="checkbox"/> Reporting Threshold
<input type="checkbox"/> Government Property		<input type="checkbox"/> Active School Zone		School Bus Related NO		Tags	
<input checked="" type="checkbox"/> Reportable		Crash Type DT4000 (STANDARD CRASH)				<input type="checkbox"/> Amended	<input type="checkbox"/> Secondary Crash

Description



I, a sworn law enforcement officer, agree that I have not added any CJIS data in this report.

VEHICLES #1 AND #2 E/B ON W. LINCOLN AVE IN THE 8900BLK. VEHICLE #1 PULLS TO THE SIDE OF THE ROADWAY IN AN ATTEMPT TO MAKE A "U" TURN. VEHICLE #2 TRIES TO AVOID IMPACT, BUT IS UNABLE TO AS VEHICLE #1 DRIVES OVER PART OF THE HOOD OF VEHICLE #2.

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WISCONSIN MOTOR VEHICLE
CRASH REPORT

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Location

ON 8900BLK W LINCOLN AVE (1) 77 FT W OF S 89TH ST (OTHER 8900BLK) IN THE CITY OF WEST ALLIS IN MILWAUKEE COUNTY	Latitude 43.002714485	Longitude -88.0236668
	X Coordinate 416565.96875	Y Coordinate 4761624.5
	Structure Type OTHER	

Crash Scene

First Harmful Event MOTOR VEH IN TRANSPORT		First Harmful Event Location ON ROADWAY	
Manner of Collision 08--FRONT TO SIDE		Light Condition DAYLIGHT	
Road Surface Condition(s) DRY		Roadway Factor(s) NONE	
Environment Factor(s) NONE			
Weather Condition(s) CLEAR			
Animal Type		Relation To Trafficway TRAFFICWAY - ON ROAD	
Crash Classification - Location PUBLIC PROPERTY		Crash Classification - Jurisdiction NO SPECIAL JURISDICTION	
Tribal Land		Access Control NO CONTROL	Special Study
Within Interchange Area NO	Junction Location NON-JUNCTION	Intersection Type NOT AN INTERSECTION	
Closure Type FULL CLOSURE		Reasons for Closure LAW ENFORCEMENT, TOW TRUCK, FIRE/EMS	
Date Initial Lane/Rd Closed 11/20/2018	Time Initial Lane/Rd Closed 07:45 AM		
Date All Lanes Open 11/20/2018	Time All Lanes Open 08:08 AM	Date Scene Cleared 11/20/2018	Time Scene Cleared 08:08 AM

Unit Summary

01 UNIT	Unit Status IN TRANSIT		Vehicle Operating As Classification B CLASS		Unit Type TRUCK		
	Vehicle Type STRAIGHT TRUCK (INSERT TRUCK)				Operating As Endorsements		
	Total Occs 3	Train/Bus # Injured	Total # Citations Issued 0	Total Trailers 0	Total HazMat Types 0		
	Insurance? YES	Direction Of Travel EASTBOUND	<input type="checkbox"/> Pre Crash Tire Mark	Speed Limit 30	Total Lanes 4		
	Most Harmful Event: Collision With MOTOR VEH IN TRANSPORT		Special Function NO SPECIAL FUNCTION		Emergency Motor Vehicle Use NOT APPLICABLE		
	Traffic Way TWO-WAY, NOT DIVIDED		Traffic Control NO CONTROL		Traffic Control Inoperative/Missing NO		
	Surface Type BLACKTOP (BITUMINOUS)		Road Curvature STRAIGHT		Road Grade LEVEL		
	Truck Bus or HazMat TRUCK OR TRUCK COMBINATION > 10,000LBS GVWR/GCWR						
	Vehicle						
	License Plate Number [REDACTED]		Plate Type MUN - MUNICIPAL	St WI	Country of Issuance UNITED STATES		
Vehicle Identification Number [REDACTED]		Make PETERBILT MOTORS CO	Year 2017	Model 320			

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UNIT VEHICLE	Color	WHI - WHITE	Body Style	GG - GARBAGE OR REFUSE	Bus Use	NOT A BUS
	Initial Contact Point	8--LEFT SIDE REAR	Vehicle Damage			
	Extent Of Damage	MINOR DAMAGE	7--LEFT REAR CORNER, 8--LEFT SIDE REAR, 9--LEFT SIDE MIDDLE			
	Towed Due To Damage	NOT TOWED	Vehicle Removed By			
	What Driver Was Doing	U TURN	Vehicle Factors			
	Driver Prior Action Other		NOT APPLICABLE			
UNIT VEHICLE	Driver Actions					
	FAILED TO YIELD RIGHT-OF-WAY					
	Driver Distractions					
NOT DISTRACTED						
01	Owner Name			Owner Address		
01	CITY OF WEST ALLIS (414) 302-8200			7525 W GREENFIELD AVE WEST ALLIS, WI 53214 , US		
Sequence Of Events						
01	Event	MOTOR VEH IN TRANSPORT				
02	Event					
03	Event					
04	Event					
UNIT	Policy Holder					
	Insurance Company			Organization/Company		
	CITIES-&-VILLAGES-MUTUAL-INS-CO			CITY OF WEST ALLIS		
UNIT INDIVIDUAL	Individual					
	Driver		Citations Issued		Sex	
	STEVEN MICHAEL JANCZAK		0		MALE	
	Date of Birth		Race		WHITE	
	[REDACTED]					
Address			Driver License Number			
10226 W STEEPVIEW LN FRANKLIN, WI 53132 , US			STATE: WISCONSIN COUNTRY: UNITED STATES			
Equipment		On Duty Crash		Safety Equipment		
Seat Position		SHOULDER & LAP BELT				
1--FRONT SEAT-LEFT SIDE (DRIVER/MOTORCY						
Helmet Use		Helmet Compliance				

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WISCONSIN MOTOR VEHICLE
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(414) 302-8000

01 001	Eye Protection		Tint Compliance			
	Injury	Injury Severity NO APPARENT INJURY	Airbag NOT APPLICABLE			
	Ejected NOT EJECTED		Ejection Path NOT EJECTED/NOT APPLICABL	Trapped/Extricated NOT TRAPPED		
	Medical Transport NOT TRANSPORTED		EMS Agency Identifier	EMS Run #		
Hospital		Date of Death		Time of Death		
01 001	Non Motorist		Striking Unit #	Prior Action	Location	To/From School
	Action					
	Action Other					
	Drug & Alcohol		Suspected Alcohol Use NO		Suspected Drug Use NO	
	Alcohol Test Given TEST NOT GIVEN		Alcohol Test Type		Alcohol Test Results	
	Drug Test Given TEST NOT GIVEN		Drug Test Type		Drug Test Results	
	Drug Type					
	Individual Condition APPEARED NORMAL					
	Individual					
	Passenger CHAD M CLEVELAND			Citations Issued 0		Sex MALE
			Date of Birth [REDACTED]		Race WHITE	
Address			Driver License Number			
Equipment		On Duty Crash		Safety Equipment		
Seat Position RIDING ON VEHICLE EXTERIOR (NON-TRAILIN		NOT APPLICABLE				
Helmet Use		Helmet Compliance				
Eye Protection		Tint Compliance				
01 002	Injury		Injury Severity NO APPARENT INJURY		Airbag NOT APPLICABLE	
	Ejected NOT EJECTED		Ejection Path NOT EJECTED/NOT APPLICABL		Trapped/Extricated NOT TRAPPED	

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WISCONSIN MOTOR VEHICLE CRASH REPORT

WEST ALLIS POLICE DEPARTMENT
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(414) 302-8000

UNIT	Medical Transport NOT TRANSPORTED		EMS Agency Identifier	EMS Run #
	Hospital		Date of Death	Time of Death
INDIVIDUAL	Non Motorist	Striking Unit #	Prior Action	Location
	Action			
	Action Other			
	Drug & Alcohol	Suspected Alcohol Use NO	Suspected Drug Use NO	
01	Alcohol Test Given TEST NOT GIVEN		Alcohol Test Type	Alcohol Test Results
	Drug Test Given TEST NOT GIVEN		Drug Test Type	Drug Test Results
	Drug Type			
	Individual Condition APPEARED NORMAL			
INDIVIDUAL	Individual			
	Passenger ROBERT G MARTIN		Citations Issued 0	Sex MALE
	Address		Date of Birth [REDACTED]	Race WHITE
			Driver License Number	
01	Equipment	On Duty Crash	Safety Equipment	
	Seat Position RIDING ON VEHICLE EXTERIOR (NON-TRAILIN		NOT APPLICABLE	
	Helmet Use		Helmet Compliance	
	Eye Protection		Tint Compliance	
003	Injury	Injury Severity NO APPARENT INJURY	Airbag NOT APPLICABLE	
	Ejected NOT EJECTED		Ejection Path NOT EJECTED/NOT APPLICABL	Trapped/Extricated NOT TRAPPED
	Medical Transport NOT TRANSPORTED		EMS Agency Identifier	EMS Run #
	Hospital		Date of Death	Time of Death
Non Motorist				
Striking Unit #		Prior Action	Location	To/From School

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WISCONSIN MOTOR VEHICLE
CRASH REPORT

WEST ALLIS POLICE DEPARTMENT
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(414) 302-8000

UNIT	INDIVIDUAL				
	Action				
	Action Other				
	Drug & Alcohol		Suspected Alcohol Use NO	Suspected Drug Use NO	
	Alcohol Test Given TEST NOT GIVEN		Alcohol Test Type	Alcohol Test Results	
	Drug Test Given TEST NOT GIVEN		Drug Test Type	Drug Test Results	
	Drug Type				
	Individual Condition APPEARED NORMAL				
	Carrier				
	<input checked="" type="checkbox"/> Use Vehicle Owner Same as Carrier		Source VEHICLE-SIDE		
UNIT	01	Name CITY OF WEST ALLIS USDOT# 000000		Address 7525 W GREENFIELD AVE WEST ALLIS, WI 53214 , US	
		GVWR MORE THAN 26,000 LB		Vehicle Configuration SINGLE UNIT TRUCK (3 OR MORE AXLES)	Cargo Body Type GARBAGE/REFUSE
	TRUCK	BUS	US DOT # 000000		Carrier Type NOT IN COMMERCE/GOVERNMENT
			Permitted Load NOT APPLICABLE		
			<input type="checkbox"/> OS/OW Load	WI Permit Number	<input type="checkbox"/> Permitted Vehicle On Permitted Route
Measured Height		Measured Length	Measured Width	Measured Weight	

Unit Summary

UNIT	02	Unit Status IN TRANSIT		Vehicle Operating As Classification D CLASS		Unit Type AUTOMOBILE						
		Vehicle Type PASSENGER CAR				Operating As Endorsements						
	Total Occs 1		Train/Bus # Injured		Total # Citations Issued 0		Total Trailers 0		Total HazMat Types 0			
	Insurance? NO		Direction Of Travel EASTBOUND		<input type="checkbox"/> Pre Crash Tire Mark		Speed Limit 30		Total Lanes 4			
	Most Harmful Event: Collision With MOTOR VEH IN TRANSPORT				Special Function NO SPECIAL FUNCTION				Emergency Motor Vehicle Use NOT APPLICABLE			
	Traffic Way TWO-WAY, NOT DIVIDED				Traffic Control NO CONTROL				Traffic Control Inoperative/Missing NO			
	Surface Type BLACKTOP (BITUMINOUS)				Road Curvature STRAIGHT				Road Grade LEVEL			
	Truck Bus or HazMat NO											
	Vehicle											

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UNIT VEHICLE	02	License Plate Number AAN5732	Plate Type AUT - AUTOMOBILE	St WI	Country of Issuance UNITED STATES	
	02	Vehicle Identification Number [REDACTED]	Make FORD	Year 2005	Model FOCUS ZX4	
		Color GRN - GREEN	Body Style 4D - 4DR	Bus Use NOT A BUS		
		Initial Contact Point 1--RIGHT FRONT CORNER	Vehicle Damage 1--RIGHT FRONT CORNER, 2--RIGHT SIDE FRONT, 11--LEFT FRONT CORNER, 12--FRONT			
		Extent Of Damage DISABLING DAMAGE				
		Towed Due To Damage TOWED DUE TO DISABLING DAMAGE	Vehicle Removed By N & S TOWING			
		What Driver Was Doing GOING STRAIGHT	Vehicle Factors NOT APPLICABLE			
UNIT VEHICLE		Driver Prior Action Other				
		Driver Actions NO CONTRIBUTING ACTION				
UNIT VEHICLE		Driver Distractions NOT DISTRACTED				
		Owner Name MERCEDES S GORDON (414) 517-1695	Owner Address 2231 S 67TH PL WEST ALLIS, WI 53219 , US			
Sequence Of Events						
UNIT INDIVIDUAL	01	Event MOTOR VEH IN TRANSPORT				
	02	Event				
	03	Event				
	04	Event				
UNIT INDIVIDUAL		Driver CHARLES H CLEVELAND (414) 517-1695	Citations Issued 0	Sex MALE		
			Date of Birth [REDACTED]	Race BLACK		
		Address 2231 S 67TH PL WEST ALLIS, WI 53219 , US	Driver License Number [REDACTED] STATE: WISCONSIN COUNTRY: UNITED STATES			
		Equipment	On Duty Crash	Safety Equipment SHOULDER & LAP BELT		
	Seat Position 1--FRONT SEAT-LEFT SIDE (DRIVER/MOTORCY					

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WISCONSIN MOTOR VEHICLE
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WEST ALLIS, WI 53227
(414) 302-8000

02 004	Helmet Use		Helmet Compliance			
	Eye Protection		Tint Compliance			
	Injury	Injury Severity SUSPECTED MINOR INJURY	Airbag NON DEPLOYED			
	Ejected NOT EJECTED		Ejection Path NOT EJECTED/NOT APPLICABL	Trapped/Extricated NOT TRAPPED		
	Medical Transport EMS GROUND		EMS Agency Identifier 6000116	EMS Run # UNKNOWN		
	Hospital AURORA MED CTR-WEST ALLIS		Date of Death	Time of Death		
	Non Motorist		Striking Unit #	Prior Action	Location	To/From School
	Action					
	Action Other					
	Drug & Alcohol		Suspected Alcohol Use NO	Suspected Drug Use NO		
Alcohol Test Given TEST NOT GIVEN		Alcohol Test Type	Alcohol Test Results			
Drug Test Given TEST NOT GIVEN		Drug Test Type	Drug Test Results			
02 004	Drug Type					
	Individual Condition APPEARED NORMAL					



MARTIN
LAW OFFICE, S.C.

Attorneys

Kevin R. Martin*
Michael J. Jassak*
Anthony J. Skemp*
Drew J. DeVinney

* Board Certified Civil Trial
Lawyer
by the National Board of
Trial Advocacy

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January 24, 2019

Atty. Nick Serwin
City Hall, Room 232
7525 W Greenfield Ave
West Allis, WI 53214

Re: Our Client: Charles Cleveland
Date of Accident: 11/20/2018

Dear Atty. Serwin:

As you know, our office represents Charles Cleveland with respect to his claim for injuries arising out of an accident involving a City of West Allis refuse vehicle on November 20, 2018. The purpose of my correspondence is to inform you that Mr. Cleveland has a claim relating to the damage sustained by his vehicle, a 2005 Ford Focus Zx4. Mr. Cleveland's vehicle has been nonoperational as a result of the subject collision. Mr. Cleveland expects that his vehicle will be declared a total loss. Unfortunately, Mr. Cleveland does not have the financial means to repair or replace his vehicle.

Mr. Cleveland requests that the City of West Allis make necessary arrangements to inspect his motor vehicle, and either repair the vehicle or compensate Mr. Cleveland for the total loss. As to the claim for property damage, the City of West Allis may communicate directly with Mr. Cleveland by calling: (414) 517-1693

The vehicle is currently located at 2231 S. 67th Place, West Allis, WI 53219. Mr. Cleveland was recently informed by his landlord that he is required to remove the vehicle from his premises. We will write a letter to Mr. Cleveland's landlord requesting that Mr. Cleveland be allowed to store his vehicle until such time as the City of West Allis is able to remove the vehicle for inspection. However, please be advised that Mr. Cleveland will not be able to store the vehicle indefinitely.

Sincerely,

MARTIN LAW OFFICE, S.C.
Electronically Signed by Drew J. DeVinney
Drew J. DeVinney
(414) 856-2670 (direct)
(414) 856-2677 (direct fax)
drew@martin-law-office.com

DJD:djd

RECEIVED
JAN 29 2019
WEST ALLIS
CITY ATTORNEY



MARTIN LAW OFFICE, S.C.

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Attorneys

Kevin R. Martin*
Michael J. Jassak*
Anthony J. Skemp*
Drew J. DeVinney

* Board Certified Civil Trial Lawyer
by the National Board of Trial Advocacy

February 18, 2019

RECEIVED
FEB 22 2019
WEST ALLIS
CITY ATTORNEY

Via US Mail and Email

Kail J. Decker
City of West Allis
7525 W Greenfield Ave
West Allis WI 53214-4648

Re: Our Client: Charles Cleveland
Date of Accident: 11/20/2018

Dear Atty. Decker:

As you know, our office represents Mr. Cleveland with respect to an accident that occurred on November 20, 2018. Please consider this letter a notice Mr. Cleveland's property damage claim. Mr. Cleveland continues to treat for his injuries. Our office will send a second notice of Mr. Cleveland's personal injury claim, when appropriate.

Mr. Cleveland's 2005 Ford Focus ZX4 ST was totaled in the collision. At the time of the collision, the vehicle had 75,559 miles and was in excellent condition. According to Kelley Blue Book (<https://www.kbb.com/whats-my-car-worth/>¹) identifies a price range between \$2,866 and \$4,539.00, with a Private Party Value of **\$3,703.00**.

This estimate is consistent with the prices found for similar vehicles listed in this area. A search on Cargurus.com (www.cargurus.com)² for 2005 Ford Focus within 100 miles of 53219 results in 21 listings (only 3 of the listed vehicles have under 100,000 miles; 3 listings have no price³). The mean price of all Ford Focus's currently listed on cargurus.com is \$3,704.06.



In addition, Mr. Cleveland incurred **\$121.44** in towing expenses from N & S Towing, Inc.

¹ Last accessed 2/18/2019

² Last accessed 2/18/2019

³ Controlling for 2005 Ford Focus listings with mileage under 100,000, the average price is \$4,996.

Finally, Mr. Cleveland has a claim for past loss of use of his vehicle. See Kim v. American Family Mut. Ins. Co., 176 Wis. 2d 890 (1993). Since the collision, Mr. Cleveland has been unable to afford a replacement to his vehicle. As such, he has been without use of a vehicle for 91 days. Wis. J.I.—Civil 1801 notes, in evaluating the damages for past loss of use, “You may consider the reasonable cost to rent a comparable automobile.” A search of Travelocity.comⁱ for a compact car rental in Milwaukee shows an average daily price of \$25.00. This is consistent with the amount typically tendered by automobile insurance companies for loss of use. Over 91 days, Mr. Cleveland’s loss of use claim amounts to \$2,275.00.

In sum, Mr. Cleveland incurred \$6,099.44 in property-related damages a result of this accident:

Property Damage:		\$3,703.00
Towing Fee:		\$121.44
Loss of Use:	+	<u>\$2,275.00</u>
		\$6,099.44

Upon approval of the property damage claim, I would ask that payment be remitted directly to Charles Cleveland at:

Mr. Charles Cleveland
2231 S. 67th Place, Upper
West Allis, WI 53219

Thank you for your review of this claim. Please do not hesitate to contact me if you have any questions.

Sincerely,

MARTIN LAW OFFICE, S.C.

Electronically Signed by Drew J. DeVinney
Drew J. DeVinney
(414) 856-2670 (direct)
(414) 856-2677 (direct fax)
drew@martin-law-office.com

DJD:djd
Enc.

i

<https://www.travelocity.com/carsearch?date1=02%2F18%2F2019&date2=5%2F20%2F2019&dpln=602647&loc2=&locn=Milwaukee%2C%20Wisconsin&time1=1000PM&time2=1000PM>

N & S TOWING, INC.

1719 So. 83rd Street • West Allis, WI 53214
 476-8697 • Fax 476-7828
 - 24 HOUR ROAD SERVICE -

VISA

\$ PAID
 11/21/18
 [Signature]



FLAT BED SERVICE

S. GORDON		DATE 11/21/18	CASH	X
PL 53219	RO#	PO#	CHARGE	
Accident	MAKE FORD Focus	YEAR 2005	DRIVER	off
LOCATION WIA 7585 - 85th + Lincoln			TRUCK #	MP
7151	MILEAGE			65 00
PHONE () -				
DOB [Redacted]	ADVANCE CHARGES			
EXP: 9/10/25	STORAGE 11/20/18 TO 11/21/18		50	00
damages done to my vehicle can be proven and also I to card issuers agreement	AUTHORIZATION # 204687	TAX 754	6	44
		TOTAL	121	44

4104 8920 0854 9518

14418 ✓

X DRIVER: CLEES GORDON
 09/19

