

**SERVICE AND PROCESSING OF CLAIMS**

Plaintiff or Claimant: Peter J Troia & Jennifer Troia  
2019 CV 003642

Date: 5-10-19

In-person

Process Server

Claimant

Other \_\_\_\_\_

By mail

By email

By fax

Received by: \_\_\_\_\_

➤ Hand deliver to: Ann Marie  or Janel

➤ Forwarded to Attorney's Office by Ann Marie or Janel

➤ Response from Attorney's Office

➤ Common Council Agenda: Yes  No

PETER J. TROIA and JENNIFER TROIA,

Plaintiffs,

and

Case No:

Code No: 30101

AURORA HEALTH CARE, INC., a/k/a  
THE AURORA NETWORK HEALTH AND WELFARE PLAN,  
by its Claims Administrator, ANTHEM BLUE CROSS BLUE SHIELD and  
AMERICAN FAMILY MUTUAL INSURANCE COMPANY, S.I.,

Subrogated Plaintiffs,

v.

CITIES AND VILLAGES MUTUAL INSURANCE COMPANY,  
CITY OF WEST ALLIS and THOMAS J. ORR,

Defendants.

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**PLAINTIFFS' FIRST SET OF WRITTEN INTERROGATORIES AND REQUEST  
FOR PRODUCTION OF DOCUMENTS TO  
DEFENDANTS CITY OF WEST ALLIS AND THOMAS J. ORR**

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The above-named Plaintiffs, Peter J. Troia and Jennifer Troia, and their attorneys, Warshafsky, Rotter, Tarnoff & Bloch, S.C., by Attorney Krista G. LaFave Rosolino, pursuant to Wis. Stats. §§804.08 and 804.09, hereby set forth the following interrogatories and requests for production of documents.

Each of the following shall be answered separately and fully in writing and under oath by each defendant, City of West Allis and Thomas J. Orr, within forty-five (45) days of service.

The Defendants, City of West Allis and Thomas J. Orr, shall, within forty-five (45) days, produce and permit Plaintiff's attorneys to inspect and copy each of the following

documents at the offices of Warshafsky, Rotter, Tarnoff & Bloch, S.C., 839 North Jefferson Street, Suite 300, Milwaukee, Wisconsin, 53202-3744.

If after you answer these interrogatories/requests for production you learn of or discover any new information and/or documents which would alter or modify your responses/production in any way, you are required to and hereby requested to seasonably supplement your responses prior to trial.

A failure to fairly meet the substance of the interrogatories and requests shall subject you to the sanctions provided in Wis. Stats. §804.12.

#### **DEFINITIONS**

- A. The term "document" shall mean the original and copy, regardless of origin or location of any book, pamphlet, periodical, letter, memorandum, schedule, telegram, report, record, study, handwritten notes, working paper, chart, paper, graph, index, tape, disc, electronic mail, facsimiles, data sheet or data processing card or any other written, recorded, transcribed, punched, taped, filmed or graphic matter, however produced or reproduced, to which you have or have had access. As to any document related to the matters described herein which is not in your possession but which you know to exist, you are requested to identify such document and indicate to the best of your ability its present or last known location and custodian.
- B. The term "you" or "your" shall mean the Defendants, City of West Allis and Thomas J. Orr, or any division, department, unit or wholly-owned subsidiary thereof; any agents, servants, employees, insurance company investigators and any and all persons or entities acting on behalf of said defendant.
- C. The term "identify" shall mean:

1. When used in reference to an individual, to state his/her full name, present or last known residence, business or official affiliation and position, business address, home telephone number and business telephone number;
  2. When used in reference to a business entity, shall mean to state its full name, its date and place of inception, its organizational form, its principal place of business and the name and address of general and/or limited partners, if any;
  3. When used in reference to an act, shall mean to state the time and place of the act, the nature of the act, the identity of the person or persons performing or joining in the act, and the identity of all persons witnessing or having knowledge of such act;
  4. When used in reference to a document, shall mean to state the identity of the author and the recipient, the identity of the custodian, the date of the document and the location of the document; and
  5. When used in reference to a product, shall mean to state the identity of the product by name and model number, the name of the manufacturer and any other descriptive features about the product.
- D. The term "subject incident," "incident" and/or "incident in question" refers to the incident of April 6, 2017 which is the subject matter of this litigation.

### **INTERROGATORIES**

**INTERROGATORY NO. 1:** Please state the full name, address, and occupation of the person responding to, or assisting in the preparation of responses, to these interrogatories.

**INTERROGATORY NO. 2:** Please state the full name of Defendant, Thomas J. Orr, any other names he has been known by, and all of his mailing addresses for the ten (10) years preceding the incident to the present.

**INTERROGATORY NO. 3:** Please state the names and addresses of any and all individuals from whom written, tape recorded, or otherwise memorialized statements regarding the incident in question were taken by anyone, including but not limited to insurance adjusters, investigators, police officers, attorneys, claims representatives, or others.

**INTERROGATORY NO. 4:** For each said written or otherwise recorded statement, identified in response to Interrogatory No. 3, state the location of the statement(s), the date(s) on which said statements were obtained, the identity of the person or persons to whom said statements were given, and the identity of the person or persons charged with the custody of said statements at the present time.

**INTERROGATORY NO. 5:** Please state whether or not you have knowledge of the existence of any photographs, video tapes, or other visual depictions taken by any party to this action, or by anyone else, of the Plaintiff, Peter J. Troia, the scene of the incident, the vehicles involved, or anything or anyone else relating to or concerning in any way the incident in question.

**INTERROGATORY NO. 6:** For each photograph, videotape, or other visual depiction identified in response to Interrogatory No. 5, please identify:

- A. The name, address, and telephone number of the person taking the photograph, video tape, or other visual depiction;
- B. The present location of each photograph, videotape, or other visual depiction;
- C. The identity of the person(s) charged with its custody at the present time;

D. The date on which said photograph, video tape, or other visual depiction was taken; and

E. The subject matter of each photograph, videotape, or other visual depiction.

**INTERROGATORY NO. 7:** Please identify by name, address, and policy number any policy(ies) of insurance that may cover the damages sustained in the subject incident.

**INTERROGATORY NO. 8:** Please state the name, address, and telephone number(s) of any and all witnesses to the subject incident.

**INTERROGATORY NO. 9:** Please state the name, address, and telephone number(s) of each and every individual the Defendant, Thomas J. Orr, spoke with on April 6, 2017.

**INTERROGATORY NO. 10:** Did the Defendant, Thomas J. Orr, own a wireless telephone (e.g., a cell phone) on the day of the incident? If “yes,” please (a) provide the telephone number, the name of the wireless service provider, and the account number with said provider; (b) indicate whether the telephone was in use at the time of and immediately preceding the subject incident, and if so, by whom; and (c) identify the last time the telephone was in use prior to the incident, including but not limited to incoming call, outgoing call, text messaging, email messaging, internet use, photographing, video recording, or any other use.

**INTERROGATORY NO. 11:** Was Defendant, Thomas J. Orr, provided a cellular device, walkie-talkie, or any other communication or radio device, in addition to any device identified in response to Interrogatory No. 10 above, by the City of West Allis on April 6, 2017? If “yes,” please (a) describe the device; (b) identify its use; and (c) identify the last time it was used prior to the subject incident and by whom.

**INTERROGATORY NO. 12:** Please identify Defendant, Thomas J. Orr's, intended destination, and the expected travel route, at the time in which the incident occurred. In other words, where was Defendant, Thomas J. Orr, going and how was he intending or expecting to get there?

**INTERROGATORY NO. 13:** Did the Defendant, Thomas J. Orr, receive a ticket or citation in connection with the subject incident? If so, please provide details regarding the ticket or citation, including but not limited to identification of the specific violation.

**INTERROGATORY NO. 14:** Please identify the capacity in which Defendant, Thomas J. Orr, was working at the time of the subject incident, the task or job that he was engaged in performing at said time, the length of time he has been employed in said position, and whether he has been involved in any other traffic incidents at any time within the duration of his employment.

**INTERROGATORY NO. 15:** Did the Defendant, Thomas J. Orr, receive any disciplinary action or formal reprimand from the City of West Allis as a result of the subject incident? If "yes," please (a) describe the investigation; (b) describe the disciplinary action or formal reprimand; and (c) describe any appeals that may have occurred and their outcome.

**INTERROGATORY NO. 16:** Has the Defendant, Thomas J. Orr, ever received any disciplinary action or formal reprimands from the City of West Allis during his employment with the City of West Allis? If "yes," please (a) describe the investigation; (b) describe the disciplinary action or formal reprimand; and (c) describe any appeals that may have occurred and their outcome.

**INTERROGATORY NO. 17:** Was the Defendant, Thomas J. Orr, a member of any labor union or employee organization on April 6, 2017. If so, please identify the labor union or employee organization.

**INTERROGATORY NO. 18:** Please identify any and all prescription medications, illicit or "street" drugs, over-the-counter medications and alcoholic beverages consumed by Defendant, Thomas J. Orr, during the twelve (12) hour time period immediately preceding the subject incident. For each medication, drug and/or beverage consumed, please identify the name, amount consumed and time consumed, and by whom prescribed.

**INTERROGATORY NO. 19:** (This interrogatory is directed to Defendant, Thomas J. Orr, only.) Please describe in detail how the subject incident occurred.

**INTERROGATORY NO. 20:** Please identify the vehicle Defendant, Thomas J. Orr, was operating at the time of the subject incident and identify if the driver controls were on the left or right of the vehicle.

### **REQUESTS FOR PRODUCTION**

**REQUEST NO. 1:** A true, accurate and complete copy of any written incident or accident report prepared by anyone, including but not limited to a defendant and/or anyone on said defendant's behalf, regarding the subject incident.

**REQUEST NO. 2:** A true, accurate and complete copy of any and all written, recorded, or otherwise memorialized statements referred to in response Interrogatory No. 3 above.

**REQUEST NO. 3:** A true, accurate and complete copy of any and all photographs, video tapes, or other visual depictions identified in response to Interrogatory No. 5 above.



**REQUEST NO. 4:** A true, accurate and complete certified copy of any and all policies of insurance identified in response to Interrogatory No. 7 above.

**REQUEST NO. 5:** A true, accurate and complete copy of any and all damage repair estimates and/or invoices for any vehicle involved in the incident in question.

**REQUEST NO. 6:** A true, accurate and complete copy of any and all documents, photographs or other such items of any nature which evidence and/or support any of the responses herein to Plaintiffs' First Set of Written Interrogatories in this action.

**REQUEST NO. 7:** A true, accurate and complete copy of any and all records and/or documents relating to the ticket(s) or citation(s) issued to Defendant, Thomas J. Orr, on April 6, 2017, related to the subject incident.

**REQUEST NO. 8:** A true, accurate and complete copy of all cellular telephone records and/or documents relating to any and all cellular telephones owned and/or provided for use by Defendant, Thomas J. Orr, by his employer, Defendant, City of West, at the time of the subject incident, for the time period of one (1) hour prior to said incident through one (1) hour following said incident.

**REQUEST NO. 9:** A true, accurate and complete copy of the employment file of Defendant, Thomas J. Orr.

**REQUEST NO. 10:** A true, accurate and complete copy of the any file regarding the subject incident compiled, created, generated or maintained by the Defendant, City of West Allis.

**REQUEST NO. 11:** A true, accurate and complete copy of any records and/or documents relating to or contained within any member file by any labor union or employee

organization regarding the Defendant, Thomas J. Orr, identified in response to Interrogatory No. 17 above.

Dated in Milwaukee, Wisconsin on this 9<sup>th</sup> day of May, 2019.

**WARSHAFSKY, ROTTER, TARNOFF & BLOCH, S.C.**  
Attorneys for Plaintiffs, Peter J. Troia and Jennifer Troia  
By:



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Krista G. LaFave Rosolino  
State Bar No. 1094302  
Email: [kristar@warshafsky.com](mailto:kristar@warshafsky.com)

**Mailing Address:**

Warshafsky, Tarnoff, Rotter & Bloch, S.C.  
839 North Jefferson Street, Suite 300  
Milwaukee, WI 53202-3744  
Telephone: (414) 276-4970  
Facsimile: (414) 276-5533

STATE OF WISCONSIN      CIRCUIT COURT      MILWAUKEE COUNTY

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PETER J. TROIA and JENNIFER TROIA  
4430 West Tumble Creek Drive  
Franklin, Wisconsin 53132-8396,

Plaintiffs,

and

Case No:  
Code No:      30101

Case Type:    PI-Auto

AURORA HEALTH CARE, INC., a/k/a  
THE AURORA NETWORK HEALTH AND WELFARE PLAN,  
by its Claims Administrator, ANTHEM BLUE CROSS BLUE SHIELD  
750 West Virginia Street  
Milwaukee, Wisconsin 53204-1539

**Registered Agent:**

Michael M. Grebe, Esq.  
Aurora Health Care, Inc.  
750 West Virginia Street  
Milwaukee, Wisconsin 53204-1539

and

AMERICAN FAMILY MUTUAL INSURANCE COMPANY, S.I.  
6000 American Parkway  
Madison, Wisconsin 53783-0001

**Registered Agent:**

Corporation Service Company  
8040 Excelsior Drive, Suite 400  
Madison, Wisconsin 53717-2915,

Subrogated Plaintiffs,

v.

CITIES AND VILLAGES MUTUAL INSURANCE COMPANY

**Registered Agent:**

Mr. Thomas Mann  
9898 West Bluemound Road  
Milwaukee, WI 53226-4319

CITY OF WEST ALLIS

A Governmental Entity  
Office of City Clerk, Steven A. Braatz, Jr.  
7525 West Greenfield Avenue, Rooms 108 – 110  
West Allis, Wisconsin 53214-4648

FILED  
05-09-2019  
John Barrett  
Clerk of Circuit Court  
2019CV003642  
Honorable Stephanie  
Rothstein-25  
Branch 25

and

THOMAS J. ORR  
3740 South Sunny View Drive  
New Berlin, Wisconsin 53151-6032,

Defendants.

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**SUMMONS**

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THE STATE OF WISCONSIN:

To each person named above as a Defendant and Subrogated Plaintiff:

You are hereby notified that the above-named Plaintiffs have filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within forty-five (45) days of receiving this Summons, you must respond with a written Answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The Court may reject or disregard an Answer that does not follow the requirements of the statutes. The Answer must be sent or delivered to the Court, whose address is:

Clerk of Circuit Court  
Milwaukee County Circuit Court  
901 North Ninth Street  
Milwaukee, WI 53233

and to Attorney Krista G. LaFave Rosolino, whose address is: Warshafsky, Rotter, Tarnoff & Bloch, S.C., 839 North Jefferson Street, Suite 300, Milwaukee, Wisconsin, 53202-3744.

If you do not provide a proper Answer within forty-five (45) days, the Court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien

against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property. You may have an attorney help or represent you.

Dated in Milwaukee, Wisconsin on this 9<sup>th</sup> day of May, 2019.

**WARSHAFSKY, ROTTER, TARNOFF & BLOCH, S.C.**

Attorneys for Plaintiffs, Peter J. Troia and Jennifer Troia

By:

*Electronically signed by Krista G. LaFave Rosolino*

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Krista G. LaFave Rosolino

State Bar No. 1094302

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Facsimile: (414) 276-5533

FILED  
05-09-2019  
John Barrett  
Clerk of Circuit Court  
2019CV003642  
Honorable Stephanie  
Rothstein-25  
Branch 25

STATE OF WISCONSIN      CIRCUIT COURT      MILWAUKEE COUNTY

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PETER J. TROIA and JENNIFER TROIA,

Plaintiffs,

Case No:

Code No:      30101

and

Case Type:    PI-Auto

AURORA HEALTH CARE, INC., a/k/a  
THE AURORA NETWORK HEALTH AND WELFARE PLAN,  
by its Claims Administrator, ANTHEM BLUE CROSS BLUE SHIELD and  
AMERICAN FAMILY MUTUAL INSURANCE COMPANY, S.I.,

Subrogated Plaintiffs,

v.

CITIES AND VILLAGES MUTUAL INSURANCE COMPANY,  
CITY OF WEST ALLIS and THOMAS J. ORR,

Defendants.

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### COMPLAINT

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NOW COME the Plaintiffs, Peter J. Troia and Jennifer Troia, by their attorneys, Warshafsky, Rotter, Tarnoff & Bloch, S.C., Attorney Krista G. LaFave Rosolino, and as and for a claim against the Defendants show to the Court as follows:

1. The Plaintiff, Peter J. Troia, is an adult resident at 4430 West Tumble Creek Drive, in the City of Franklin, County of Milwaukee, State of Wisconsin, 53132-8396;
2. The Plaintiff, Jennifer Troia, is an adult resident at 4430 West Tumble Creek Drive, in the City of Franklin, County of Milwaukee, State of Wisconsin, 53132-8396, and at all times material hereto, was the spouse of Plaintiff, Peter J. Troia.
3. The Subrogated Plaintiff, Aurora Health Care, Inc., a/k/a The Aurora Health Care Health and Welfare Plan, by its Claims Administrator, Anthem Blue Cross Blue Shield, and with

its home offices and registered agent, Michael M. Grebe, Esq. at Aurora Health Care, Inc., 750 West Virginia Street, City and County of Milwaukee, 53204-1539; is a domestic corporation generally engaged in the business of selling insurance; does substantial business in Milwaukee County; and may have provided health benefits on behalf of the Plaintiff, Peter J. Troia, for which said Subrogated Plaintiff may have a claim for subrogation, subject to the terms of any insuring agreement and the laws of the State of Wisconsin.

4. The Subrogated Plaintiff, American Family Mutual Insurance Company, S.I., by its registered agent, Corporation Service Company, 8040 Excelsior Drive, Suite 400, in the City of Madison, County of Dane, State of Wisconsin, 53717-2915, and with its home offices located at American Family Mutual Insurance Company, S.I. 6000 American Parkway, City of Madison, State of Wisconsin, 53873-0001, is a domestic corporation generally engaged in the business of selling insurance; does substantial business in Milwaukee County; and may have made medical expense payments to or on behalf of the Plaintiff, Peter J. Troia, for which said Subrogated Plaintiff may have a claim for subrogation, subject to the terms of any insuring agreement and the laws of the State of Wisconsin.

5. The Defendant, Cities and Villages Mutual Insurance Company, is a domestic corporation licensed to do business in Wisconsin and is generally engaged in the business of selling insurance; its principal place of business is located at 9898 West Bluemound Road in the City of Milwaukee, County of Milwaukee, State of Wisconsin 53226-4319 and its registered agent is Thomas Mann; does substantial business in Milwaukee County; at all times material hereto provided automobile liability insurance to defendant the City of West Allis and its employees; and, pursuant to the terms of its policy and the laws of the State of Wisconsin, is a proper party to this action and is liable to the plaintiffs for all damages resulting from the incident here in question.

6. The Defendant, City of West Allis, is a governmental entity with its principal place of business and registered agent, City Clerk's Office 7575 West Greenfield Avenue, Rooms 108 - 110, City of West Allis, County of Milwaukee, State of Wisconsin, 53214-4648; at all times material herein was the employer of Defendant, Thomas J. Orr, who was in the course and scope of his employment at the time of the occurrence described herein and is liable to the plaintiffs for all damages resulting from the incident here in question.

7. The Defendant, Thomas J. Orr, is an adult individual residing at 3740 South Sunny View Drive in the City of New Berlin, County of Waukesha, State of Wisconsin, 53151-6032.

8. On April 6, 2017, at approximately 1:41 p.m., Plaintiff, Peter J. Troia, suffered injuries while operating his motor vehicle in an easterly direction on West Oklahoma Avenue in the City of West Allis, County of Milwaukee, Wisconsin and proceeding on a green light through the intersection with South Root River Parkway at which time his vehicle was struck by a City of West Allis garbage truck being operated by Defendant, Thomas J. Orr, who was in the scope of his employment with the City of West Allis at the time of said collision.

9. The aforesaid collision occurred as a result of the negligence and carelessness of Defendant, Thomas J. Orr.

10. As a proximate result of the negligence of Defendant, Thomas J. Orr, the Plaintiff, Peter J. Troia, sustained property damage to his vehicle and sustained personal injuries, some of which may be permanent in nature and which have caused to sustain pain, suffering, disability, and hospital and medical expenses which may continue in the future.

11. As a proximate result of the negligence of Defendant Thomas J. Orr, Plaintiff Jennifer Troia sustained damages, some of which may be permanent in nature, including the loss of services, society, companionship and consortium of her spouse.



WHEREFORE, the Plaintiffs, Peter J. Troia and Jennifer Troia, demand judgment against the Defendants, jointly and severally, in whatever amount the trier of fact deems as reasonable compensation for damages, plus costs and disbursements in this action.

**PLAINTIFF HEREBY DEMANDS THAT THE ABOVE ENTITLED ACTION  
BE TRIED BY A JURY OF TWELVE (12) PERSONS.**

Dated in Milwaukee, Wisconsin on this 9<sup>th</sup> day of May, 2019.

**WARSHAFSKY, ROTTER, TARNOFF & BLOCH, S.C.**  
Attorneys for Plaintiffs, Peter J. Troia and Jennifer Troia  
By:

*Electronically signed by Krista G. LaFave Rosolino*

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