

21.



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
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2006-0274 Claim Claim Report

Habush, Habush & Rottier, S.C. communication on behalf of Nicole L. Kaltenbach, regarding injuries and damages allegedly sustained on November 20, 2003.

Introduced: 5/16/2006

Controlling Body: Administration & Finance Committee

COMMITTEE RECOMMENDATION

Place on File

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
NOV 06 2007		<input checked="" type="checkbox"/>	Barczak	<input checked="" type="checkbox"/>			
			Czaplewski	<input checked="" type="checkbox"/>			
			Dobrowski				
			Kopplin				
			Lajsic	<input checked="" type="checkbox"/>			
		<input checked="" type="checkbox"/>	Narlock				
			Reinke	<input checked="" type="checkbox"/>			
			Sengstock				
			Vitale				
		Weigel	<input checked="" type="checkbox"/>				
		TOTAL		<u>5</u>	<u>-</u>		<u>-</u>

SIGNATURE OF COMMITTEE MEMBER

[Handwritten Signature]

Chair

Vice-Chair

Member

COMMON COUNCIL ACTION

PLACE ON FILE

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
NOV 06 2007	<input checked="" type="checkbox"/>		Barczak	<input checked="" type="checkbox"/>			
			Czaplewski	<input checked="" type="checkbox"/>			
			Dobrowski	<input checked="" type="checkbox"/>			
			Kopplin	<input checked="" type="checkbox"/>			
			Lajsic	<input checked="" type="checkbox"/>			
			Narlock	<input checked="" type="checkbox"/>			
			Reinke	<input checked="" type="checkbox"/>			
			Sengstock	<input checked="" type="checkbox"/>			
			Vitale	<input checked="" type="checkbox"/>			
		Weigel	<input checked="" type="checkbox"/>				
		TOTAL		<u>10</u>	<u>-</u>		<u>-</u>



October 24, 2007

OFFICE OF THE CITY ATTORNEY

Common Council
City of West Allis

Scott E. Post
City Attorney

Sheryl L. Kuhary
Jeffrey J. Warchol
Cheryl L. Wentland
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 placed on file:

Nicole L. Kaltenbach v. City of West Allis, et al. – Amount \$ 80,000.00
Milwaukee County Case No. 06-CV-008876

This is a claim for personal injuries and property damage as a result of a vehicle accident between a City of West Allis police officer and the claimant on November 20th, 2003. On said date, while an on duty West Allis police officer was following a suspicious van a few car lengths in front of the officer, at West National Avenue and South 93rd Street in the City of West Allis, the police officer struck the vehicle driven by the claimant from behind causing the claimant's vehicle in turn to strike the car in front of it. Although the claimant did not report any injuries at the scene of the accident, she was taken to the hospital as a precautionary measure due to the fact that she was several months pregnant. A short time later, the claimant began experiencing problems with her back and sought further medical assistance for said injury. A passenger in the claimant's vehicle was also injured as a result of the accident. The claimant, as well as her passenger, retained a law firm to represent their interests in this matter and formal claims were filed against the City on behalf of the claimant and the passenger on January 15th, 2004. The claim on behalf of the passenger was negotiated to a resolution and placed on file by the Common Council in March of 2006.

With regard to the claimant, the property damage portion of her claim was settled in June of 2005 for the amount of \$2,000.00 and paid to the claimant in accordance with settlement guidelines. The personal injury portion of her claim, however, was much more difficult as the claimant continued to experience back pain, according to herself, as a result of the motor vehicle accident. On or about May 4th, 2006, after incurring approximately \$20,000.00 in medical bills for various procedures done to her back, the claimant's attorney filed a formal demand of damages in the amount of \$236,727.22. The statutory cap in damages on a case like this involving a vehicle owned by the City of West Allis is \$250,000.00.

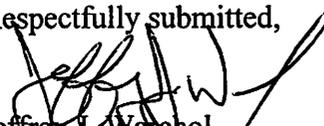
The City Attorney's Office obtained various medical reports of the claimant through discovery and learned that the claimant had a pre-existing back problem with degenerating discs prior to the accident with the City of West Allis police officer. As a result of the pre-existing condition, as well as the fact that

it was highly unlikely that the claimant would actually have surgery on her back due to her age and the degenerative condition, the City Attorney's Office did not feel that the case merited anywhere near the amount demanded. In May of 2006, the City Attorney's Office attempted to negotiate a settlement with the claimant's attorney in the range of \$50,000 - \$100,000 which is more in line with the nature of the injuries sustained and medical bills incurred but to no avail. On September 20th, 2006, a lawsuit was commenced against the City by the claimant in the Circuit Court for Milwaukee County (Case No. 06-CV-008876) regarding this matter.

Due to the provisions of the Cities and Villages Mutual Insurance Company's Policy, the law firm of Crivello, Carlson and Mentkowski was retained to represent the City's interest in this case. After much discovery and an independent medical examination conducted on the claimant, the attorney's representing the City came to the same conclusion that the City Attorney's Office did regarding the nature and severity of the claimant's injuries in this case. As a result of said conclusion, the City Attorney's Office would not reconsider its original offer in this case of \$50,000 - \$100,000. On August 28th, 2007, the case went to formal mediation prior to jury trial and settled for the amount of \$80,000.00. The Administration & Finance Committee for the City of West Allis approved said settlement amount on September 4th, 2007. To date, the settlement check has been tendered and the Milwaukee County Circuit Court case was dismissed pursuant to stipulation and order. This matter is now complete.

Based upon the above, this claim should be placed on file.

Respectfully submitted,



Jeffrey J. Warchol
Assistant City Attorney

JJW:da

POST MEDIATION AGREEMENT

In the matter of
Milwaukee - 2006CV8896

THE PARTIES HERETO:

Nicole E. Kattenbach PL
City of West Allis, West Allis Blue Imp. Dist. Org.

having submitted the facts and issues to the mutually agreed upon mediator, Patrick L. Snyder, have fully and completely resolved this dispute as follows:

The City of West Allis SHALL PAY
UNTO Nicole E. Kattenbach

\$ 80,000 AS FOLLOWS: Check to bank trust
acc within 30 days after approval by the
West Allis Common Council on Sept 5, 2007.
This settlement is subject to said approval

inclusive of all costs, disbursements, and attorney fees for damages, whether compensatory, liquidated and/or punitive. PLAINTIFF MUST SATISFY ALL SUBRO LIENS & HEALTH CARE PROVIDERS>

That no party to this agreement shall at any time hereinafter make any claims against the other, institute any lawsuit against the other, or make any demands for payment from the other for any alleged reason or causes arising out of the facts or issues of the matter herein.

Each party releases the other from any and all claims and/or liability arising from this matter. That this agreement is final and binding upon any and all parties to this matter, as well as their heirs, successors and assigns, and is enforceable in any court of law of general jurisdiction.

Dated this 28 day of August 2007
Scott Klat Michelle Kattenbach
Angie J Doyle L. Fehring

55
29
9001

CLAIM FOR INJURIES

PS

AGENT FOR STATE PROCESS SERVICE, INC.

Time of Service 10:23 am pm

Date of Service 5-4-06

Served upon: SAmy

Personal Service Substitute personal service
 Corporate Service Posting

TO: CITY OF WEST ALLIS
c/o Paul Ziehler, City Clerk
7525 West Greenfield Avenue
West Allis, WI 53214

CITY OF WEST ALLIS POLICE DEPT.
c/o Dean Puschnig, Chief of Police
7525 West Greenfield Avenue
West Allis, WI 53214

JESSICA T. WINK
c/o City of West Allis Police Department
7525 West Greenfield Avenue
West Allis, WI 53214

PLEASE TAKE NOTICE that NICOLE L. KALTENBACH, whose address is 2079 South 92nd Street, West Allis, Wisconsin, 53227, by her attorneys, HABUSH HABUSH & ROTTIER S.C., does hereby make claim against you for damages arising out of the personal injuries sustained by her on November 20, 2003, as the result of being rear-ended by a City of West Allis Police Department vehicle being operated by its employee, Jessica T. Wink.

These injuries and damages were sustained by reason of the negligence of an agent, servant and employee of the City of West Allis and the City of West Allis Police Department.

As a result of the negligence on the part of the agent, servant and employee of the City of West Allis and the City of West Allis Police Department, Nicole L. Kaltenbach sustained permanent injuries and damages, including past and future pain, suffering, disability and loss of enjoyment of life, past wage loss and impairment of future earning capacity, past and future medical expenses, and other compensable injuries.

By reason of the negligence on the part of the agent, servant and employee of the City of West Allis and the City of West Allis Police Department, Nicole L. Kaltenbach demands damages from you in the sum of \$ 236,727.22

Dated at Milwaukee, Wisconsin, this 28th day of April, 2006.

Witness:

HABUSH HABUSH & ROTTIER S.C.
 Attorneys for Claimant

Bobana Glez

By

Laurence J. Fehring
 Laurence J. Fehring
 State Bar No. 1000122

RECEIVED

MAY 04 2006

CITY OF WEST ALLIS
 CLERK/TREASURER

cc: Attorneys



CITY OF WEST ALLIS

WISCONSIN



City Clerk/Treasurer Office

PAUL M. ZIEHLER
*City Administrative Officer
Clerk/Treasurer*

ROSEMARY WEST
*Treasurer's Office Supervisor
Senior Accountant*

MONICA SCHULTZ
Assistant City Clerk

May 8, 2006

Laurence J. Fehring
Habush, Habush & Rottier, S.C.
777 East Wisconsin Ave.
Suite 2300
Milwaukee, WI 53202

Dear Mr. Fehring:

This letter acknowledges receipt of your communication submitted on behalf of Nicole L. Kaltenbach regarding injuries and damages allegedly sustained on November 20, 2003.

The original document will be submitted to the Common Council at its meeting of May 16, 2006.

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

/amn

cc: City Attorney



OFFICE OF THE CITY ATTORNEY

Scott E. Post
City Attorney

Sheryl L. Kuhary
Jeffrey J. Warchol
Cheryl L. Wentland
Assistant City Attorneys

October 23, 2007

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.

The following claim/lawsuit has been denied:

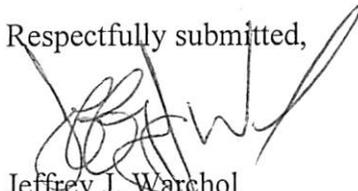
Kevin Bahrs (\$1,025.72)

The following claims/lawsuits have been placed on file:

James T. Statza (\$2,451.83)

Nicole L. Kaltenbach v. City of West Allis (\$80,000.00)
Milwaukee County Case #06-CV-008876

Respectfully submitted,



Jeffrey J. Warchol
Assistant City Attorney

JJW:da
Enclosures

cc: Thomas E. Mann, CVMIC