



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
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2007-0738 Claim Claim Report

Christen L. Cook communication regarding vehicle damage allegedly sustained at S 60 St. and W. Beloit Rd. on October 19, 2007.

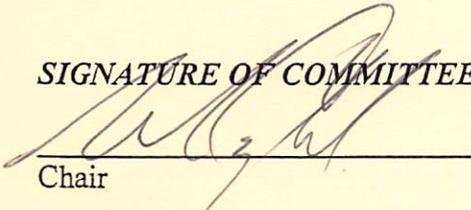
Introduced: 12/4/2007

Controlling Body: Administration & Finance Committee

COMMITTEE RECOMMENDATION Deny

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>JAN 02 2008</u>			Barczak	✓			
			Czaplewski	✓			
			Dobrowski				
		✓	Kopplin				
			Lajsic	✓			
			Narlock				
			Reinke	✓			
			Sengstock				
			Vitale				
		Weigel	✓				
		TOTAL		<u>5</u>	<u>-</u>		

SIGNATURE OF COMMITTEE MEMBER



Chair

Vice-Chair

Member

COMMON COUNCIL ACTION Deny

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>JAN 02 2008</u>	✓		Barczak	✓			
			Czaplewski	✓			
		✓	Dobrowski	✓			
			Kopplin	✓			
			Lajsic	✓			
			Narlock	✓			
			Reinke	✓			
			Sengstock	✓			
			Vitale	✓			
		Weigel	✓				
		TOTAL		<u>10</u>	<u>-</u>		



December 13, 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 denied:

Christen Cook - Amount: \$ 116.00

This is a claim for replacement of a tire on the claimant's vehicle, which was allegedly destroyed when the claimant hit a pothole on October 19th, 2007, in the area of South 60th Street and West Beloit Road in the City of West Allis, WI. Although the claimant struck the pothole on October 19th, 2007, it wasn't until October 29th, 2007, that the claimant noticed a bulge in the front tire of the car. Furthermore, there were no pictures taken of the alleged pothole and upon questioning, the claimant could not even tell the City's investigator the exact location of the incident. On November 2nd, 2007, during a routine 10,000 mile service check of her vehicle, the bulge in the tire was examined by the dealership and the tire was replaced. The claimant, believing that the tire damage was caused solely by the pothole incident, filed a claim against the City on or about November 20th, 2007, for the replacement of a tire.

This matter was investigated by Brian D. Block, Traffic & Utility Technician for the City of West Allis. Mr. Block spoke with the claimant and then conducted a field investigation of the area in question and was unable to locate any significant pothole in said area. Of course, it did not help that the claimant was unable to determine the location of the incident herself, even after she had driven through the area again looking for said defect. Furthermore, pursuant to state law, the City is not responsible for a defect in a roadway unless the City had knowledge of said defect prior to the claimant's incident and failed to repair the same. In this case, there is no evidence that the City had knowledge of any defect in the area in question as alleged by the claimant.

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

November 20, 2007

Christen L. Cook
717 Grove Ave.
Racine, WI 53405

Dear Ms. Cook:

This letter acknowledges receipt of your communication regarding vehicle damage allegedly sustained at S. 60 St. and W. Beloit Rd. on October 19, 2007.

The original document will be submitted to the Common Council at its meeting of December 4, 2007.

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

November 16, 2007

RECEIVED

NOV 20 2007

WEST ALLIS
CITY ATTORNEY

Dear Members of the West Allis Common Council:

On Friday, October 19, 2007 I was driving my car on 60th Street near Beloit Road in the City of West Allis. My car ran over a large pot hole that is located on that street.

On Monday, October 29, 2007, I noticed a bubble in my car's front tire on the passenger side. I knew that it had to be from the pot hole because I had not run over or into anything else since that date, and my tires are nearly brand new as my car has less than 10,000 miles on it.

On Friday, November 2, 2007, I had my car serviced for its regular 10,000 mile check-up. I informed the Service Department at Boucher Volkswagen in Racine that there was a bubble in my front passenger-side tire. They confirmed my observation, and had no choice but to replace the tire. I have this tire in my possession as proof of the damage.

As suggested by the City Attorney, I tried to take photos, but they do not effectively show the damage. Todd Bishop, Service Manager at Boucher, has kindly written a letter of his own expert opinion to testify to my claim. (See attached letter.) If needed, I would also be able to get witness statements from passengers I had with me when this occurred. In addition, I would like to note that one of these passengers made the comment that the exact same pot hole that I hit was responsible for ruining the shocks on his car a couple of years ago.

I am asking the Council to consider reimbursing the full cost of my tire replacement, which is \$95.00 or \$116.00, including the labor charge. (See attached receipt.)

If such an arrangement is unsatisfactory to the Council, I sincerely suggest the repair of the pot hole on 60th and Beloit. It is not only a danger to motorists, but it is a disservice to the taxpayers of the City and State.

Sincerely,



Christen Cook

[Faint, illegible text, likely bleed-through from the reverse side of the page]

cc: Atty

Please do not hesitate
to contact me with
any questions.

262-632-5032

Thanks!

Christen

Namenda
memantine HCl



oucher

mazda

KIA

Company —

To Whom It May Concern:

Christen Cook came into our dealership on Friday 2nd, 2007. She stated to us that she had hit a pothole on the right front side of her 2006 VW Jetta (plate 116-LGM). Our technician inspected all tires and found them to be in good condition except for the right front tire, we verified that there was a bulge in the right front tire consistent with what she had said about hitting a pothole. The tire was not repairable; therefore we replaced the right front tire.

Thank you,

Todd Bishop

VW Service Manager

9601 Washington Avenue
P.O. Box 085690
Racine, WI 53408-5690

Racine 261-886-2886
Kenosha 262-553-5553
Metro 414-762-9444
Fax 262-886-4181

6325032

218872



CHRISTEN L COOK
717 GROVE AVE
RACINE, WI 53405
HOME:262-632-5032 BUS:

INVOICE
DUPLICATE 2
PAGE 1

FRANK BOUCHER

9601 WASHINGTON AVENUE - P.O. BOX 085690
RACINE, WISCONSIN 53408-5690
Zone 55
Code 68396
(262) 886-2886
www.gordie.com

SERVICE ADVISOR: 431 JEFF UICK

COLOR	YEAR	MAKE/MODEL	VIN	LICENSE	MILEAGE IN/ OUT	TAG
BLACK	06	VOLKSWAGEN JETTA	3VWRF71K36M783882		9620/9620	T329
DEL DATE	PROD. DATE	WARR. EXP.	PROMISED	PO NO.	PAYMENT	INV. DATE
20NOV06 IS			17:00 02NOV07		80.00 CASH	02NOV07
R.O. OPENED		READY	OPTIONS: STK:65378 DLR:68396			
02NOV07		02NOV07				

LINE	OPCODE	TECH	TYPE	HOURS	LIST	NET	TOTAL
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A OIL AND FILTER CHANGE. TOP OFF FLUID LEVELS. INSPECT UNDERCARRIAGE AND EXHAUST.
 CMV1 OIL AND FILTER CHANGE. TOP OFF FLUID LEVELS. INSPECT UNDERCARRIAGE AND EXHAUST.
 1 HAIRPETIAN,LUDWIG LIC#: 6826
 CPVM 13.80 13.80
 1 06D-115-562 FILTERELEM 13.00 13.00
 6 ZVW-352-540-BULK SYNTECH 6.50 6.50 39.00

B ROTATE TIRES ONLY
 CMC6 ROTATE TIRES ONLY
 1 HAIRPETIAN,LUDWIG LIC#: 6826
 CPVM 22.95 22.95

C** MOUNT AND BALANCE 1 TIRE
 MB1 MOUNT AND BALANCE 1 TIRE
 1 HAIRPETIAN,LUDWIG LIC#: 6826
 CPV 21.00 21.00
 1 1732513 205/55R16 KUMHO ASX 95.00 95.00

CUSTOMER PAY SHOP CHARGE FOR REPAIR ORDER 3.47



"Your Continued Satisfaction Is Our Primary Concern"

Visit us at www.gordie.com or call 1-888-BOUCHER FOR OUR OTHER LOCATIONS TO SERVE YOU: LINCOLN MERCURY Oldsmobile Ford Chevrolet HYUNDAI KIA mazda NISSAN VW SATURN	*Any warranties on the products sold hereby are those made by the manufacturer. The seller, BOUCHER IMPORTS, Inc., hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or fitness for a particular purpose, and neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of said products.* NOTICE: You are entitled to inspect or receive any components, parts, or accessories replaced or removed by the shop. Motor vehicle repair practices 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, Wisconsin 53708-8911.	Factory Trained Technicians Service Dept. Hours: MON-TUE-THUR-FRI 7:00am - 5:30pm WEDNESDAY 7:00am - 7:00pm	<table border="1"> <thead> <tr> <th>DESCRIPTION</th> <th>TOTALS</th> </tr> </thead> <tbody> <tr> <td>LABOR AMOUNT</td> <td>57.75</td> </tr> <tr> <td>PARTS AMOUNT</td> <td>147.00</td> </tr> <tr> <td>GAS, OIL, LUBE</td> <td>0.00</td> </tr> <tr> <td>SUBLET AMOUNT</td> <td>0.00</td> </tr> <tr> <td>MISC. CHARGES</td> <td>3.47</td> </tr> <tr> <td>TOTAL CHARGES</td> <td>208.22</td> </tr> <tr> <td>DED/ADJ</td> <td>0.00</td> </tr> <tr> <td>SALES TAX</td> <td>10.62</td> </tr> <tr> <td>PLEASE PAY THIS AMOUNT</td> <td>218.84</td> </tr> </tbody> </table>	DESCRIPTION	TOTALS	LABOR AMOUNT	57.75	PARTS AMOUNT	147.00	GAS, OIL, LUBE	0.00	SUBLET AMOUNT	0.00	MISC. CHARGES	3.47	TOTAL CHARGES	208.22	DED/ADJ	0.00	SALES TAX	10.62	PLEASE PAY THIS AMOUNT	218.84
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MISCELLANEOUS SUPPLIES AND MATERIALS: A charge is included for materials and/or hazardous waste disposal (if applicable) used on your vehicle. Material items are: Nuts, bolts, washers, tape, pins, aerospray, shellac, solvent, rags, carburetor cleaner, towels, solder, battery cleaner, wire, window sealer, etc.

CUSTOMER COPY

Christen Cook
717 Grave Ave
Racine WI 53405

MILWAUKEE WI 532
19 NOV 2007 PM 4 L



LOUIS COMFORT TIFFANY

West Allis City Hall
elo City Attorney
7525 W. Greenfield Ave
West Allis, WI 53214

3321414642





OFFICE OF THE CITY ATTORNEY

Scott E. Post
City Attorney

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

December 18, 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 claims/lawsuits have been denied:

Christen Cook (\$116.00)
Great West Casualty Company/Mark Flower/TBT, LLC (\$1,947.00)

The following claim/lawsuit has been placed on file:

Sandor Virovec (\$730.22)
State Farm Insurance Co./Jeff Dawson (\$3,842.60)

Respectfully submitted,



Jeffrey J. Warchol
Assistant City Attorney

JJW:da
Enclosures

cc: Thomas E. Mann, CVMIC



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

NOTICE OF DISALLOWANCE OF CLAIM

January 3, 2008

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Ms. Christen Cook
717 Grove Avenue
Racine, WI 53405

Re: Your Claim Against the City of West Allis
Date of Loss: October 19th, 2007

Dear Mr. Bahrs:

At its meeting on January 2nd, 2008, the Common Council of the City of West Allis considered your claim received on November 11th, 2007, regarding vehicle damage allegedly sustained at South 60th and West Beloit Road, 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. Ziebler
City Administrative Officer
Clerk/Treasurer

PMZ:da
L:\jeff\claims\denialLtrs\ltr-denial-C Cook

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