

4.
28.



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
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2009-0620 Claim Claim Report

Latitude Subrogation Services, LLC communication submitted on behalf of J & B Construction Co. Inc. regarding vehicle damage allegedly sustained at 2100 block of S. 97 Street on July 29, 2009.

Introduced: 9/15/2009

Controlling Body: Administration & Finance Committee

COMMITTEE RECOMMENDATION

Paid & Placed on File

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
DEC 01 2009			Barczak				
			Czaplewski				
			Kopplin	✓			
			Lajsic	✓			
			Narlock	✓			
		X	Reinke	✓			
			Roadt				
			Sengstock				
			Vitale		✓		
			Weigel				
		TOTAL		5	-		

SIGNATURE OF COMMITTEE MEMBER

Kurt E. Kopplin
 Chair Vice-Chair Member

COMMON COUNCIL ACTION *Paid & PLACE ON FILE*

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
DEC 01 2009			Barczak	✓			
			Czaplewski	✓			
			Kopplin	✓			
			Lajsic	✓			
			Narlock	✓			
			Reinke	✓			
			Roadt				✓
			Sengstock	✓			
			Vitale	✓			
			Weigel	✓			
		TOTAL		9		1	



OFFICE OF THE CITY ATTORNEY

Scott E. Post
City Attorney

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

November 17, 2009

Common Council
City of West Allis

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(8) 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 paid and placed on file:

J&B Construction Co., Inc. – Amount \$2,030.54

This is a claim for property damage to the claimant's vehicle on July 29th, 2009, when the claimant's employee drove into an unprotected, newly poured, wet cement section of the street in the 2100 block of South 97th Street located in the City of West Allis, WI. On said date, a City crew had just finished pouring wet cement to repair a section of the road and left the scene without properly barricading it. The claimant's employee, came upon the scene moments later and drove around barricades that he believed to be protecting a portion of the street, when in fact said employee drove directly into the cement causing the vehicle to sink and become stuck. A tow truck was required to pull the claimant's vehicle out of the cement, which ultimately caused damage to the front bumper, lower front spoiler, engine lower shield, front alignment and brake pads of the vehicle. The claimant's insurance company filed a claim on September 4th, 2009, in an amount stated above to repair its insured's vehicle.

City of West Allis Traffic Investigator Michael Farrell, who was the police officer at the scene of the incident, investigated this claim. Officer Farrell's official report indicates that the wet cement was wide open and unprotected with "no clearly marked advanced warning, transition buffer, work or termination spaces for the hazard". Furthermore, upon Officer Farrell's questioning of the Department of Public Works crew who came back to the scene, the foreman admitted that the crew forgot to place barricades in the proper positions prior to leaving the scene.

Based upon the above, pursuant to settlement guidelines, the City Attorney's Office settled this claim in the amount stated herein and obtained a Property Damage Only Release signed by the claimant's insurance company. Therefore, it is the recommendation of the City Attorney's Office to place this claim on file.

Respectfully submitted,


Jeffrey J. Warchol
Assistant City Attorney

JJW:da

RECEIVED

NOV 06 2009

WEST ALLIS
CITY ATTORNEY

PROPERTY DAMAGE ONLY RELEASE

KNOW ALL MEN BY THESE PRESENTS that LATITUDE SUBROGATION SERVICES, a proper and legal subrogee in this matter, on behalf of Frankenmuth Mutual Insurance Company and J&B Construction Co. Inc., its insured, for and in consideration of Two Thousand Thirty and 54/100 Dollars (\$2,030.54) the receipt whereof is hereby acknowledged, do hereby forever release, acquit and discharge the City of West Allis, Wisconsin, a municipal corporation, its departments, commissions, officials, agents and employees, his, her, its or their successors and assigns and all others directly or indirectly liable, from any and all claims and demands, actions and causes of action, damages, both known and unknown, including future developments thereof, costs, loss of service and compensation on account of, or in any way growing out of, any and all known and unknown property damage resulting or to result from that certain incident on or about July 29th, 2009, in the 2100 Block of South 97th Street, West Allis, Wisconsin, when an employee of J&B Construction Co. Inc., while driving around barricades in the street, drove into an unprotected, newly poured, wet cement section of the street resulting in J&B Construction Co. Inc.'s vehicle becoming stuck and causing damage to the front bumper, lower front spoiler, engine lower shield, front alignment and brake pads of the vehicle.

I agree that this settlement is in full compromise of a doubtful and disputed claim both as to the question of liability and damages and that the payment is not to be construed as an admission of liability.

I agree that this is a complete release of property damage only and it is understood and agreed that it doesn't constitute a release for any bodily injury resultant from this accident.

I further agree that this release and payment pursuant thereto is not to be construed as a waiver by or an estoppel of any party released to prosecute a claim or action against the undersigned for any damages sustained.

I HAVE READ THE FOREGOING RELEASE AND FULLY UNDERSTAND IT. I FURTHER UNDERSTAND THAT I HAVE THE OPPORTUNITY TO DISCUSS AND NEGOTIATE THE TERMS OF THIS RELEASE WITH THE WEST ALLIS CITY ATTORNEY AND SPECIFICALLY WAIVE SUCH OPPORTUNITY.

Signed and sealed this 2 day of November, 2009.



LATITUDE SUBROGATION SERVICES
By Paul H Webb, Agent for
Frankenmuth Mutual Insurance Company,
Subrogated Party for J&B Construction Co. Inc.

Subscribed and sworn to before me
this 2 day of November, 2009.

Brett A Richardson
(
Notary Public, State of Michigan
My Commission: Sept 8, 2015

BRETT A. RICHARDSON
Notary Public, State of Michigan
County of Oakland
My Commission Expires Sep. 08, 2015
Acting in the County of _____



September 3, 2009

1760 S. Telegraph Road, Suite 104
Bloomfield Hills, MI 48302
Ph (877) 454-3400, Fax (877) 454-3405
www.latitudesubro.com

RECEIVED

SEP - 4 2009

CITY OF WEST ALLIS
CLERK/TREASURER

RECEIVED

SEP 04 2009

WEST ALLIS
CITY ATTORNEY

City of West Allis
Department of Public Works
6300 W McGeoch Ave
West Allis, WI 53219

Date of Loss: 07/29/2009
Claim Number: 001000B09E22872
Our Insured: J&B Construction Co. Inc.
Damages: \$2,030.54

Dear City Of West Allis:

Latitude Subrogation Services has been appointed by Frankenmuth Mutual Insurance Company to pursue subrogation recoveries on their behalf.

Our investigation of this claim determined that you are responsible for the damages sustained by our insured and paid for by Frankenmuth Mutual Insurance Company.

Enclosed are the supporting documents for your review. Please issue a check for **\$2,030.54** made payable to **Latitude Subrogation Services**, reference claim number **001000B09E22872** and send to:

Latitude Subrogation Services
P.O. Box 7932
Bloomfield Hills, MI 48302-7932

Be advised that no partial payment, which is less than the full amount claimed herein, will be considered satisfaction of this claim without the express written consent of Latitude Subrogation Services and our rights to enforce collection of the remaining amount will not be waived due to any such partial payment.

We look forward to your prompt response and please contact us if you have any questions.

Sincerely,

Candi Dragonetti
Subrogation Specialist
Latitude Subrogation Services, LLC
Phone: 1-877-454-3400 Ext. 1-2510
Direct line: 1-248-365-0081
E-mail: cdrag@latitudesubro.com

NADA Official Used Car Guide
 Friday, July 31, 2009

Vehicle Summary NADA Values

Region:	Midwest - July 2009	Reference #:				
Vehicle Description:	2005 HONDA Odyssey-V6 Wagon 5D LX	VIN:	5FNRL38265B130802			
MSRP:	\$24,995	Weight:	4,378			
Mileage:	146,869					
		<u>Rough</u>	<u>Average</u>	<u>Clean</u>	<u>Clean</u>	<u>Clean</u>
		<u>Trade-In</u>	<u>Trade-In</u>	<u>Trade-In</u>	<u>Loan</u>	<u>Retail</u>
Base Value		\$8,650	\$9,800	\$10,750	\$9,675	\$12,925
Optional Equipment						
Aluminum/Alloy Wheels		\$200	\$200	\$200	\$200	\$225
Luggage Rack		\$50	\$50	\$50	\$50	\$75
Option Total		\$250	\$250	\$250	\$250	\$300
Mileage Adjustment		-\$2,650	-\$2,650	-\$2,650	-\$2,650	-\$2,650
.....						
Total NADA Official Used Car Guide Values		\$6,250	\$7,400	\$8,350	\$7,275	\$10,575

NADA assumes no responsibility or liability for any errors or omissions or any revisions or additions made by anyone on this report.
 All NADA values are reprinted with permission of NADA Used Car Guide, NADASC.

MEMBER I.A.D.A.
T.E.C. DAMAGE APPRAISERS
3205 LATHAM DRIVE
MADISON, WI 53713
PHONE: 608-274-6776 FAX: 608-274-3032

CD LOG NO 474 -0

07-31-09 10:52 AM

ESTIMATE

CLAIM INFORMATION

CLAIM #		POLICY #	CPP3030743
COMPANY	FRANKENMUTH MUTUAL INSURANCE	CLAIM REP	
INSURED	J & B CONSTRUCTION CO INC	LOSS DATE	07-29-09
CLAIMANT		LOSS TYPE	COLLISION
FILE HNDLR		FILE #	M43289

INSPECTION

COMPANY	TEC Appraisers, Inc.		
TYPE	INDEPENDENT FIELD		
PRIMARY POI	FRONT END CENTER	SECOND POI	REAR END CENTER
APPRAISER NAME	DARREL MIHLBAUER		
WORK PHONE	(262) 363-2748	FAX	(262) 363-2748
ADDRESS	304 LINCOLN AVE	INSP DATE	07-31-09
CITY STATE	MUKWONAGO WI	LOCATION	SCHLOSSMANN'S HONDA
ZIP	53149-	CITY STATE	MILWAUKEE WI

OWNER

J & B CONSTRUCTION CO INC	WORK#(262) 437-0537
W140 N10589 FOND DU LAC	HOME#(414) 315-4075
GERMANTOWN WI 53022-	

REPAIR

ATTN AL/RICHARD	SHOP LIC#
SCHLOSSMANN'S HONDA CITY	CAR IN
3450 S. 108TH ST.	CAR OUT
GREENFIELD WI 53227-	REPAIR 0 DAYS
SHOP PHONE (414) 328-3500	REG. ID 39-1095094
	FAX (414) 328-3515

VEHICLE

2005 HONDA ODYSSEY LX 4 DR PASSENGER VAN
6CYL GASOLINE 3.5

OPTIONS

TWO-STAGE - EXTERIOR SURFACES	TWO-STAGE - INTERIOR SURFACES
ALARM SYSTEM	

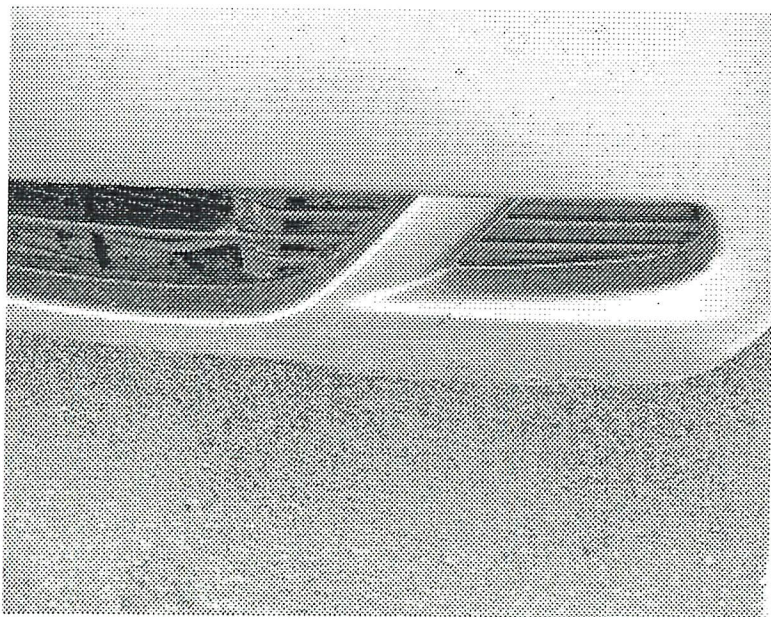
BODY COLOR	BEIGE	MILEAGE	146,869
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Photographs

Our File #:	M43289	Owner:	J & B CONSTRUCTION CO INC
Appraised For:	FRANKENMUTH MUTUAL INSURANCE	Date of Loss:	07/29/09
Claim #:		Location:	MILWAUKEE, WI
Policy #:	CPP3030743		
Date Inspected:	07/31/09		
Appraiser:	Darrel Mhlbauer	Signed:	_____



FT. BUMPER RT. LOWER SIDE



FRONT BUMPER LEFT LOWER
SIDE

For: FRANKENMUTH MUTUAL Claim #:

Our File #: M43289

Page 2



LEFT FT. CORNER



RT. FT. CORNER

For: FRANKENMUTH MUTUAL Claim #:

Our File #: M43289

Page 3



LEFT REAR CORNER

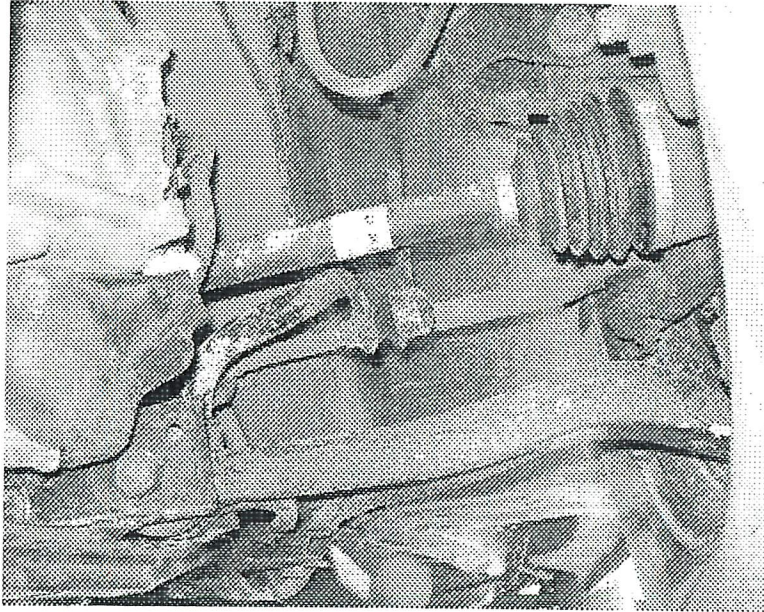


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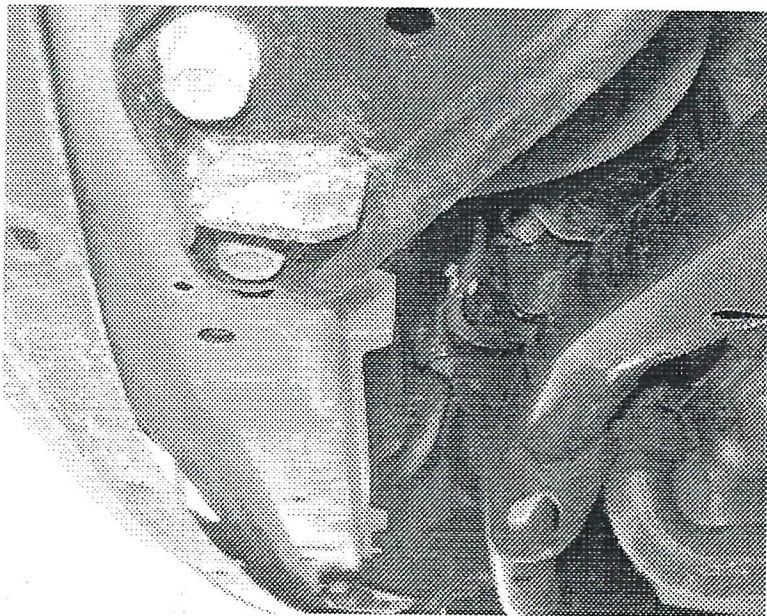
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Our File #: M43289

Page 4



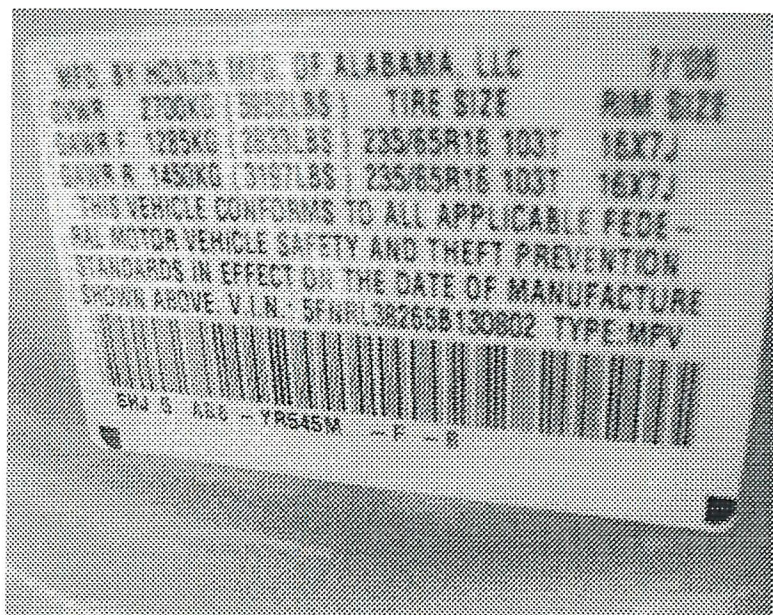
LEFT FT. UNDERBODY AND
SUSPENSION



FRONT BUMPER AND
UNDERBODY



FT. BUMPER FENDER LINER



DOOR VIN TAG

For: FRANKENMUTH MUTUAL Claim #:

Our File #: M43289

Page 6



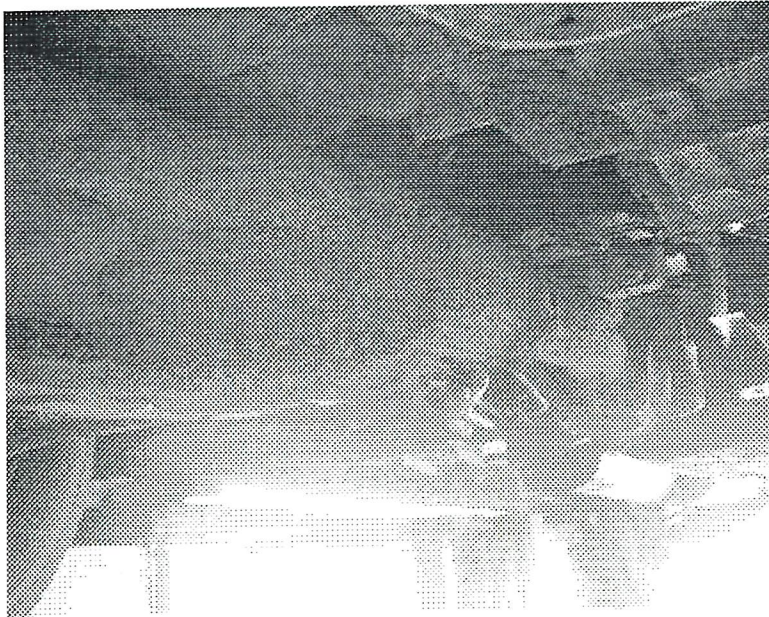
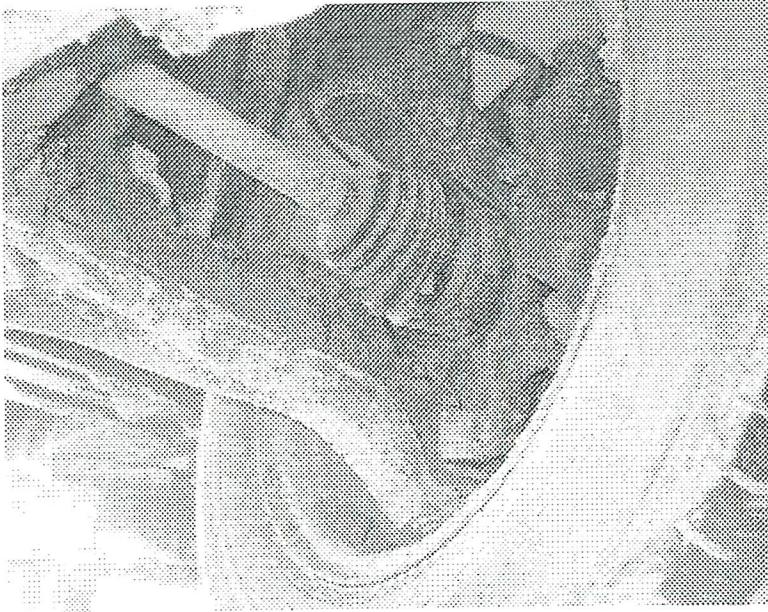
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For: FRANKENMUTH MUTUAL Claim #:

Our File #: M43289

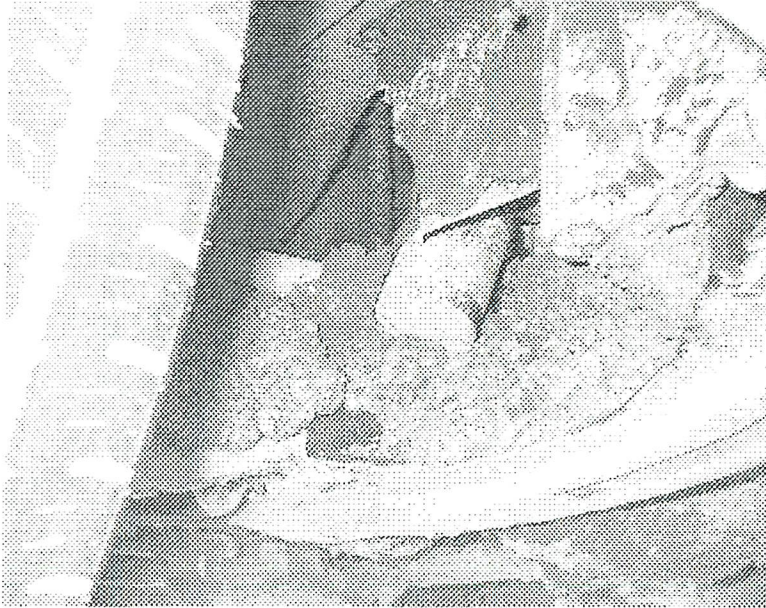
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Our File #: M43289

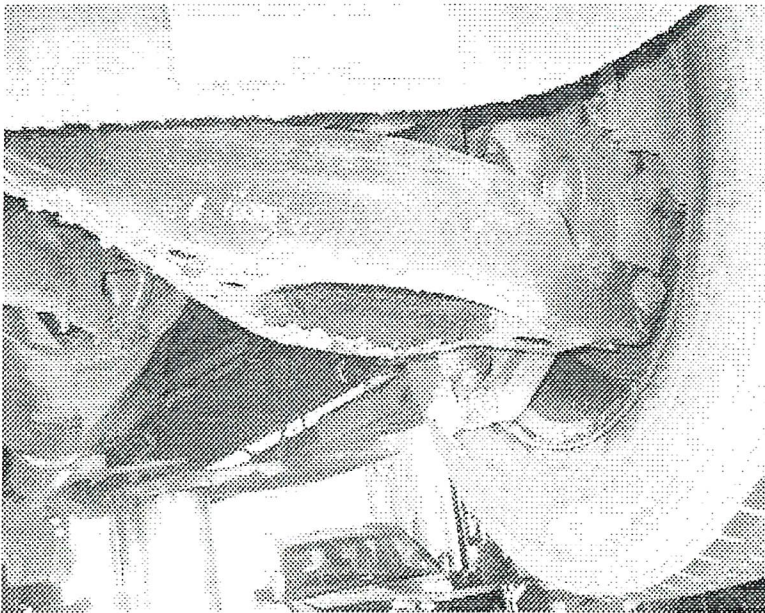
Page 8



For: FRANKENMUTH MUTUAL Claim #:

Our File #: M43289

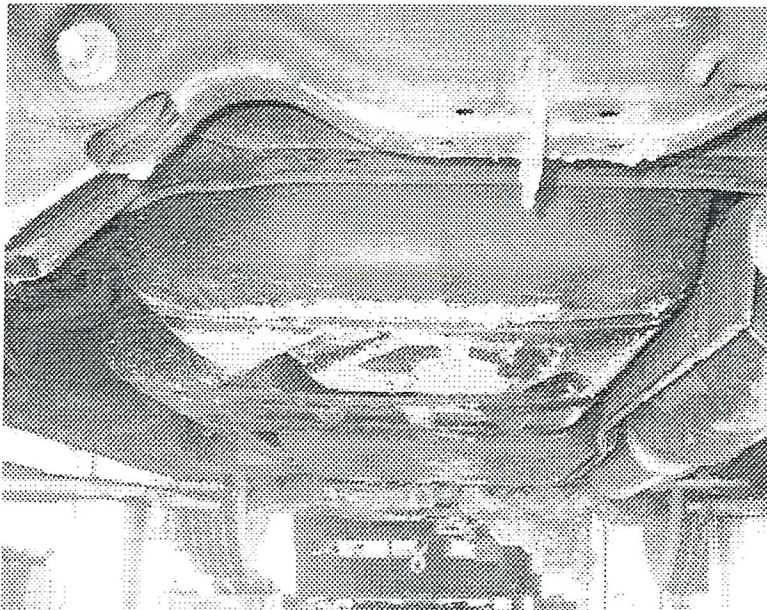
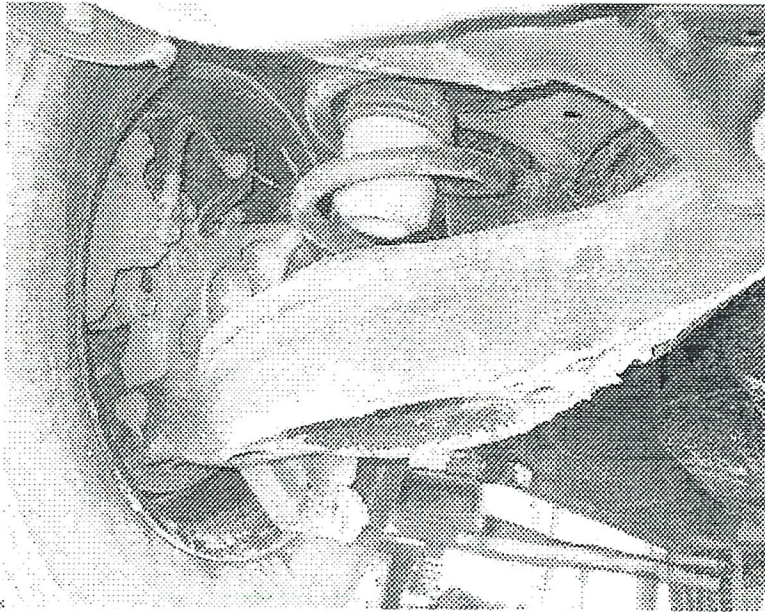
Page 9



For: FRANKENMUTH MUTUAL Claim #:

Our File #: M43289

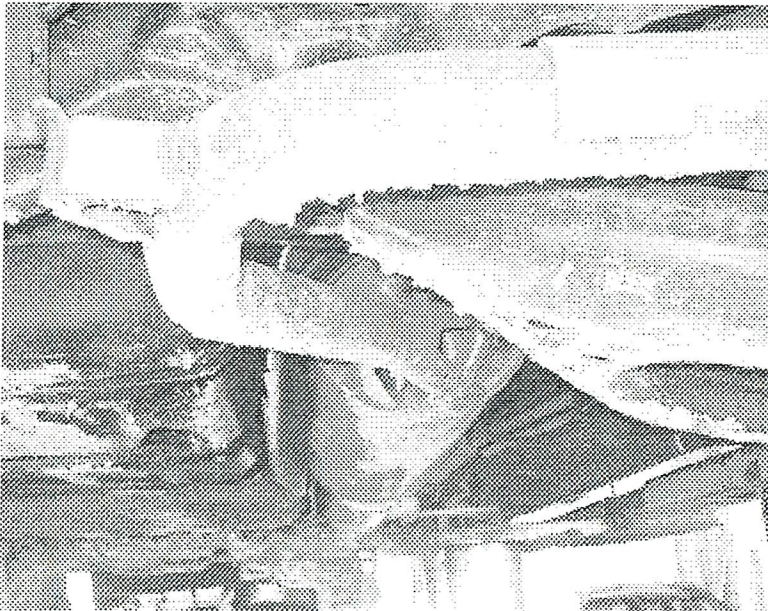
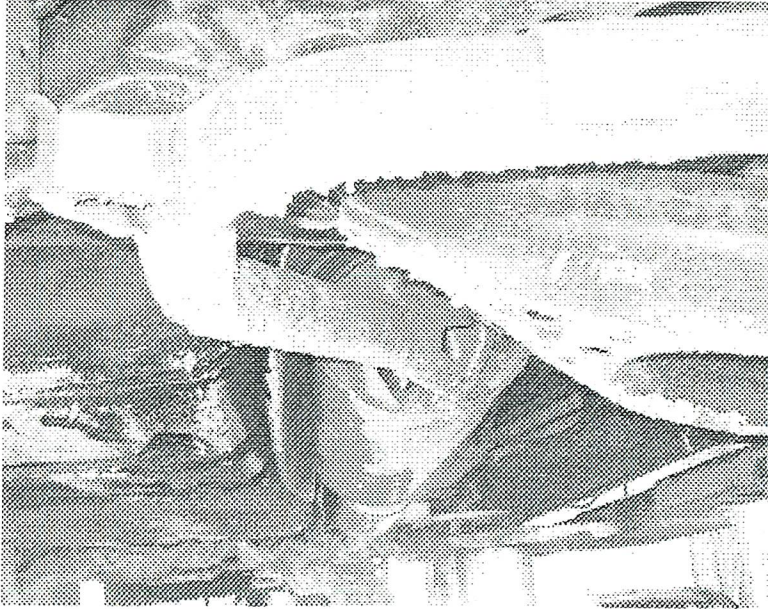
Page 10



For: FRANKENMUTH MUTUAL Claim #:

Our File #: M43289

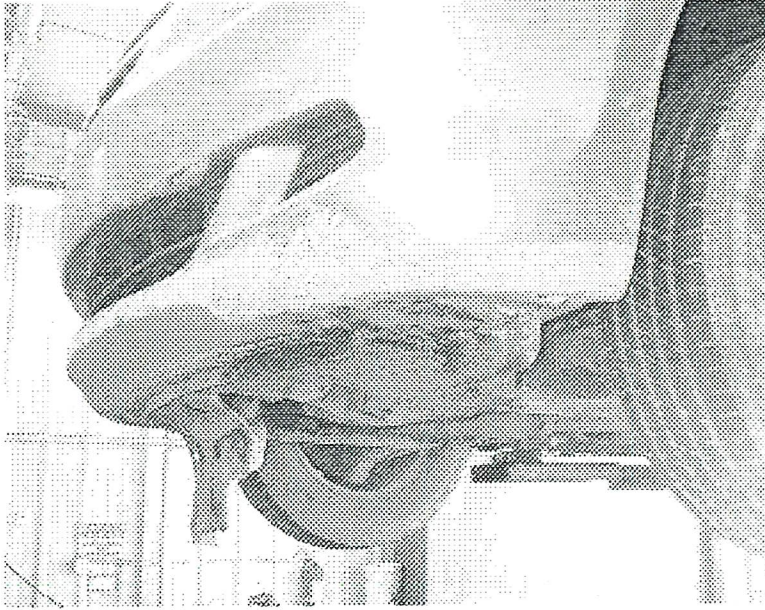
Page 11



For: FRANKENMUTH MUTUAL Claim #:

Our File #: M43289

Page 12





Claim Inquiry Detail

Claim Number: 001000B09E22872
Loss Date: 07/29/2009
Policyholder: J & B CONSTRUCTION CO INC
Policy Number: 1605678 23

Claim Information

Claim Open Date: 07/29/2009	Claim Closed Date:	Claim Type: Commercial Auto	Claim Status: Open
Policy Symbol: BA	Policy Number: 6067391	Policy Effective Date: 07/11/2009	Policy Expiration Date: 07/11/2010
Line of Business: Commercial Auto	Branch Number: 0000000		

Outstanding Subrogation Outstanding Salvage Outstanding Recovery Litigation

Special Investigation

Cause of Loss:

Loss Description:

IV drove into wet cement

Insured Unit:

2005 HONDA ODYSSEY MIN 5FNRL38265B130802

Third Party Information

Claimant Information

Claimant:

J & B CONSTRUCTION CO INC, W140N10589 FOND DU LAC AVE, GERMANTOWN, WI, 53022-4327, (262)437-0573

Financial Summary

Total Claim Incurred (\$):

1141.54

	Outstanding Reserve (\$)	Total Payment (\$)	Incurred (\$)
Direct:	\$0.00	\$1,030.54	\$1,030.54
Expense:	\$0.00	\$111.00	\$111.00
Medical:	\$0.00	\$0.00	\$0.00

	Outstanding Recovery (\$)	Total Receipts (\$)	Incurred (\$)
Subrogation:	\$500.00	\$0.00	\$0.00
Salvage:	\$0.00	\$0.00	\$0.00
Recovery:	\$0.00	\$0.00	\$0.00
Reinsurance:	\$0.00	\$0.00	\$0.00

Payment Information

Payee:

TEC APPRAISERS

Claimant:

J & B CONSTRUCTION CO INC

Mail To Address:

3205 LATHAM DR, MADISON, WI, 53713-4615

Check/Wire Transfer Number:

BULK079313

Amount (\$):

\$111.00

Disbursement Status: Disbursement Date:

Disbursed 08/14/2009

Coverage:

COL - Standard Collision

Payment Information

Payee:

J & B CONSTRUCTION CO INC

SCHLOSSMANN IMPORTS INC.

Claimant:

J & B CONSTRUCTION CO INC

Mail To Address:

W140N10589 FOND DU LAC AVE, GERMANTOWN, WI, 53022-4327

Check/Wire Transfer Number:

0000157157

Disbursement Status: Disbursement Date:

Disbursed 08/19/2009

Amount (\$):
\$1,030.54

Coverage:
COL - Standard Collision

Policy Index
Policy Number:
6067391

Policyholder:
J & B CONSTRUCTION CO INC

Billing Index

[Back](#) | [Help](#)

Wisconsin Motor Vehicle Accident Report
 MV4000e 01/2005
 PK2007

copy to DW

POLICE # 09-006774

ACCIDENT # A09072902

<input type="checkbox"/> Reportable Accident	<input type="checkbox"/> On Emergency	<input type="checkbox"/> Amended	DOT Document Number BRRFSM1	Document Override Number
Agency Accident Number A09072902		Police Number 09-006774		
4 - Accident Date 07/29/2009	5 - Time of Accident (Military Time) 0853	6 - Total Units 01	7 - Total Injured 00	8 - Total Killed 00
2 - County MILWAUKEE - 40	3 - Municipality WEST ALLIS - 60, CITY		11 - Accident Location NON-INTERSECTION	
14 - On Hwy No.	14 - On Street Name 97TH ST S	14 - Bus/Fmt/Rmp	15 - Est. Dist 475	F/Mi F
15 - Hwy. Dir SOUTH	16 - Business/Frontage/Ramp			
16 - Fr/A: Hwy No.	16 - From/At Street Name BECHER ST W			
17 - Structure Type OTHER #	17 - Structure Number 2100BLK	12 - Latitude	13 - Longitude	
80 - First Harmful Event OTHER NON-COLLISION		83 - Manner of Collision NO COLLISION WITH MOTOR VEHICLE IN TRANSPORT		
112 - Access Control NO CONTROL	113 - Road Curvature STRAIGHT	113 - Road Terrain LEVEL/FLAT	Surface Type CONCRETE - 1	
115 - Traffic Way NOT-PHYSICALLY-DIVIDED-(2-WAY TRAFFIC)				
117 - Relation To Roadway ON-ROADWAY				
114 - Light Condition DAYLIGHT		115 - Road Surface Condition DRY		118 - Weather CLEAR
<input type="checkbox"/> Hit and Run	<input checked="" type="checkbox"/> Government Property	<input type="checkbox"/> Fire	<input type="checkbox"/> Photos Taken	<input type="checkbox"/> Trailer or Towed
<input type="checkbox"/> Truck, Bus, or Hazardous Materials	<input type="checkbox"/> Load Spillage	<input type="checkbox"/> Construction Zone	<input type="checkbox"/> Names Exchanged	
<input checked="" type="checkbox"/> Supplemental Reports	<input type="checkbox"/> Witness Statements	<input type="checkbox"/> Measurements Taken	79 - E M S Number	

Operator/Pedestrian

Unit Status	81 - Most Harmful Event: Collision With OTHER NON-COLLISION	23 - Dir Of Travel NORTH	24 - Speed Limit 25
35 - Operating as Classified D CLASS	37 - Endorsements	35 <input type="checkbox"/> Operating Commercial Motor Vehicle	
29 - Drivers License Number C4504752616509	30 - State WI	31 - Expiration Year 2015	34 - On Duty Accident
25 - Operator/Pedestrian Last Name CLINE	25 - First Name JOHN	25 - Middle Initial P	25 - Suffix
32 - Date Of Birth 05/05/1926	33 - Sex MALE		
26 - Address Street & Number 17142 ARCHIBALD LAKE RD			26 - PO Box
27 - City TOWNSEND	27 - State WI	27 - Zip Code 54175	28 - Telephone Number (262) 437-0537 EXT.
39 - Seat Position FRONT-SEAT-LEFT-SIDE-(MC/BIKE DRIVER, TRAIN CONDUCTOR)		40 - Safety Equipment SHOULDER-BELT-AND-LAP-BELT-USED	
38 - Injury Severity N - NO APPARENT INJURY	41 - Airbag NON-DEPLOYED	42 - Ejected NOT-EJECTED	44 <input type="checkbox"/> Medical Transport
43 - Trapped/Extricated NOT-TRAPPED	92 - Pedestrian Location	92 - Pedestrian Action	
119 - What Driver Was Doing GOING-STRAIGHT		120 - Traffic Control NO-CONTROL	62 - No. of Citations Issued 0
64 - 1st Statute No.	64 - 2nd Statute No.	64 - 3rd Statute No.	64 - 4th Statute No.
64 - 5th Statute No.			
122 - Driver Factors NOT-APPLICABLE			
68 - Driver or Pedestrian Cond APPEARED NORMAL	89 - Substance Presence NEITHER-ALCOHOL-NOR-DRUGS-PRESENT		
80 - Alcohol Test TEST NOT GIVEN	80 - Alcohol Content	91 - Drug Test TEST-NOT-GIVEN	

OPERATOR/PEDESTRIAN 01

X

MDS

Wisconsin Motor Vehicle Accident Report BRRFSM1
MV4000e 01/2005

PK2007

91 - Drugs Reported
124 - Highway Factors OTHER

Vehicle

VEHICLE 01	21 - Unit Type AUTOMOBILE	Vehicle Type PASSENGER-CAR				22 - Total Occupants 1
	56 - License Plate Number 210JUP	57 - Plate Type AUT	58 - State WI	59 - Exp Year 2009	55 - Vehicle Identification Number 5FNRL38265B130802	
	50 - Year 2006	51 - Make HOND	52 - Model ODYSSEY LX	53 - Body Style TK	54 - Color GLD	100 - Skidmarks to Impact (Ft) 0
	94 - Vehicle Damage FRONT, FRONT DRIVER SIDE, FRONT PASSENGER SIDE, REAR DRIVER SIDE, REAR PASSENGER SIDE, UNDERCARRIAGE					
	95 - Extent Of Damage MODERATE	96 <input checked="" type="checkbox"/> Vehicle Towed Due To Damage		97 - Vehicle Removed By N & S TOWING		
	123 - Vehicle Factors NOT-APPLICABLE					

Vehicle Owner

VEH OWNER 01	45 <input type="checkbox"/> Vehicle Owner Same As Operator			
	46 - Vehicle Owner Last Name	46 - First Name	46 - Middle Initial	46 - Suffix
	46 - Company Name J & B LEASING			
	47 - Address Street & Number 4380 N GREEN BAY AVE		47 - PO Box	
	48 - City MILWAUKEE	48 - State WI	48 - Zip Code 53209	49 - Telephone Number

Insurance

INS 01	63 - Liability Insurance Company UNKNOWN	60 <input type="checkbox"/> Policy Holder Same As Owner	
	61 - Policy Holder Last Name	61 - Policy Holder First Name	
	61 - Policy Holder Company		

School Bus

BUS 01	Bus Travelling to/from <input type="radio"/> To <input type="radio"/> From	School Name	Body Make	Seating Capacity
	School District Contracted With			

Property

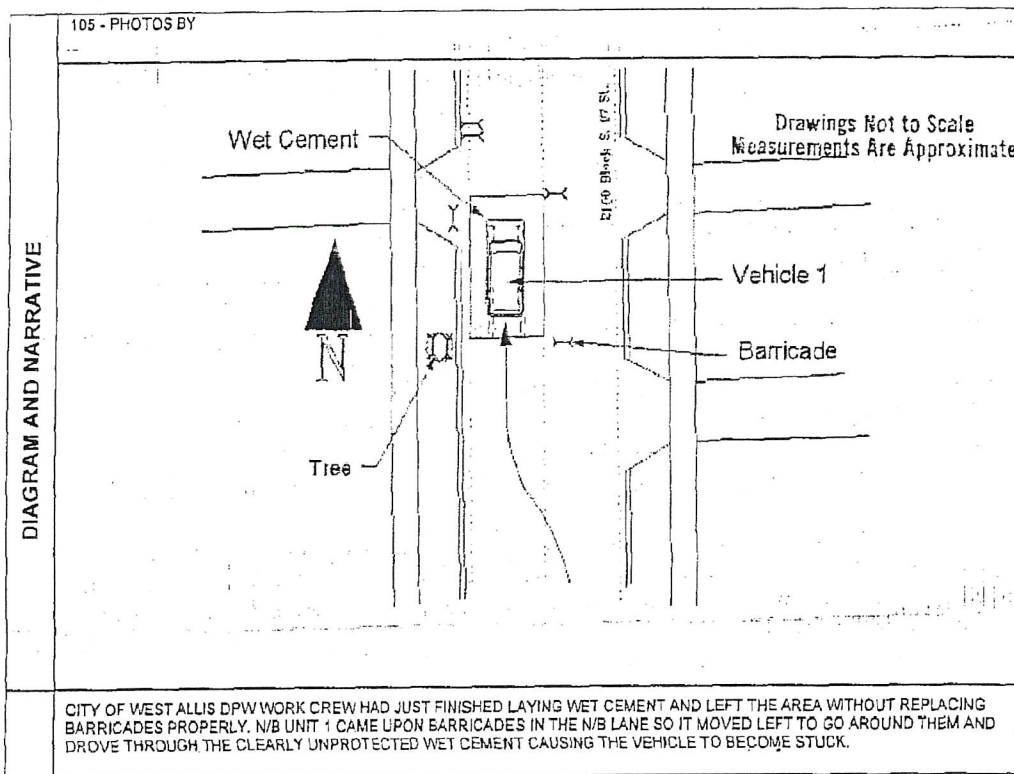
Organization Type GOVERNMENT	84 - Property Owner Last Name	84 - First Name	84 - Middle Initial	84 - Suffix
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Wisconsin Motor Vehicle Accident Report
 MV4000e 01/2005
 BRRFSM1

PK2007

PROPERTY OWNER 01	84 - Company Name WEST ALLIS CITY OF		Government Property Type COUNTY/MUNICIPAL	
	85 - Address Street & Number 7525 W GREENFIELD AVE		85 - PO Box	
	86 - City WEST ALLIS	86 - State WI	86 - Zip Code 53214	87 - Telephone Number (414) 302-8200 EXT.
	83 - Government Damage Tag Number			
	Fixed Objects Struck			
82 - Striking Unit 1	82 - Object Struck OTHER-FIXED-OBJECT	82 - Striking Unit	82 - Object Struck	
82 - Striking Unit	82 - Object Struck	82 - Striking Unit	82 - Object Struck	
82 - Striking Unit	82 - Object Struck	82 - Striking Unit	82 - Object Struck	

Diagram and Narrative



Officer Information

OFFICER INFORMATION	125 - Officer Last Name FARRELL		125 - First Name MICHAEL	125 - Middle Initial	131 - Officer ID 0158
	129 - Law Enforcement Agency No. 4116	130 - Law Enforcement Agency Name WEST ALLIS POLICE DEPARTMENT			
	126 - Law Enforcement Agency Address Street & Number 11301 WEST LINCOLN AVENUE				
	127 - City WEST ALLIS	127 - State WI	127 - Zip Code 53227	128 - Telephone Number (414) 302-8000 EXT.	
	132 - Date Notified 07/29/2009	133 - Time Notified (Military Time) 0857	134 - Time Arrived (Military Time) 0902	135 - Date Of Report 07/29/2009	
	Agency Accident Number A09072902	Police Number 09-006774	19 - Special Study		
	15 - Agency Space				



West Allis
Police Department

A09072902

Accident Investigation

Event #: 09-034265
Date of Accident: 07/29/09 Time of Accident: 0853
Location: 2100 block of S. 97 St.
Investigating Officer(s): MF0158 Assisting Officer(s): MG1264

Traffic Investigator: MF0158 TI Michael Farrell

Investigation

Officer Farrell reporting...

I responded to a complaint of a vehicle stuck in wet cement in front of 2140 S. 97 Street. Upon arrival I found the N/B van fully stuck in wet cement in the S/B lane. The vehicle was running with the transmission in reverse. The driver's door was open and the driver was not in sight.

The wet cement was wide open and unprotected. There were two type 2 barricades in the N/B lane, two or three type 2 barricades along the west curb just north of the hole, one across the private driveway and a couple more resting against a city tree. There were no clearly marked advanced warning, transition, buffer, activity, work or termination spaces for the hazard. There were no painted lines on the street. There were no arrows indicating movement direction. The opening to the right of the barricades in the N/B lane was about 9 feet while the opening to the left was about 17 feet. The van width is 6.43 feet.

At this time I was not sure if the barricades were left this way by the road crew or if vandals had moved the barricades away from the wet cement. I noticed the City of West Allis name on one of the barricades. I immediately called for a tow truck to pull the van out and a city crew to respond to repair the damage to the concrete. The driver, John Cline returned.

Cline states he was N/B on 97th Street when he came upon the barricades in the N/B lane. He moved left of center to go around the obstruction and drove into what he now knows to be wet cement.

Within a minute or two, a City of West Allis DPW crew arrived. I spoke with Joe Narlock. I asked him if this was our job (city of West Allis) and he said, "We just left here five minutes ago". I told him it looked like he forgot to replace the barricades. Joe responded, "I know, we f...ed up".

N&S Towing pulled the van out from the wet concrete. Officer Gyurina and myself used a neighbor's garden hose to wash the majority of wet concrete off of unit 1 and the DPW crew repaired the damaged concrete in an attempt to minimize the loss.

Squad video from car 37 was retrieved and placed on property 52150. A still photo from the video is included with this report showing barricade placement.



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

September 10, 2009

Ms. Candi Dragonetti, Subrogation Specialist
Latitude Subrogation Services, LLC
1760 S. Telegraph Road, Suite 104
Bloomfield Hills, MI 48302

RE: Claim #001000B09E22872

Dear Ms. Dragonetti:

This letter acknowledges receipt of your communication submitted on behalf of J & B Construction Co. Inc. regarding vehicle damage allegedly sustained at 2100 block of S. 97 Street on July 29, 2009.

The original document will be submitted to the Common Council at its meeting of September 15, 2009.

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

/jml

cc: City Attorney



OFFICE OF THE CITY ATTORNEY

Scott E. Post
City Attorney

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

November 17, 2009

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(8) 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 paid and placed on file:

J&B Construction Co., Inc. (\$2,030.54)

The following claims/lawsuits have been denied:

Word of Grace Bible Church (\$500.00)
Theresa Wolf (\$750.00)

Respectfully submitted,

Jeffrey J. Warchol
Assistant City Attorney

JJW:da
Enclosures

cc: Thomas E. Mann, CVMIC