

12.



# City of West Allis Matter Summary

7525 W. Greenfield Ave.  
West Allis, WI 53214

File Number	Title	Status
2009-0071	Claim	Claim Report
Stephanie Wisneski communication regarding vehicle damage allegedly sustained at the 9400 block of W. Mitchell St. on December 28, 2008.		
Introduced: 2/3/2009		Controlling Body: Administration & Finance Committee

### COMMITTEE RECOMMENDATION

*POF*

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<i>APR 21 2009</i>			Barczak				
			Czaplewski				
			Kopplin	✓			
			Lajsic	✓			
	X		Narlock	✓			
			Reinke	✓			
			Roadt				
			Sengstock				
		X	Vitale	✓			
			Weigel				
			TOTAL	<i>5</i>			

### SIGNATURE OF COMMITTEE MEMBER

*[Signature]*  
 Chair \_\_\_\_\_ Vice-Chair \_\_\_\_\_ Member \_\_\_\_\_

### COMMON COUNCIL ACTION **PLACE ON FILE**

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<i>APR 21 2009</i>		✓	Barczak	✓			
			Czaplewski	✓			
			Kopplin				
			Lajsic	✓			
			Narlock	✓			
			Reinke	✓			
			Roadt	✓			
	✓		Sengstock				✓
			Vitale	✓			
			Weigel	✓			
			TOTAL	<i>9</i>			<i>1</i>



OFFICE OF THE CITY ATTORNEY

Scott E. Post  
City Attorney

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

April 1, 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:**

**Stephanie Wisneski– Amount \$131.58**

This is a claim for property damages to the claimant's vehicle on December 28<sup>th</sup>, 2008, when it was struck, while unoccupied and legally parked, by a City of West Allis snowplow performing plowing operations in the 9400 block of West Mitchell Street, West Allis, WI. As a result of the accident, the driver's side mirror of the claimant's vehicle was damaged. The claimant obtained estimates for repair and filed a claim against the City on January 20<sup>th</sup>, 2009.

Our investigation of this claim indicated that the operator of the snowplow was at fault for the accident by failing to maintain a proper distance while attempting to pass the claimant's vehicle. The estimates for repair provided by the claimant were reasonable given the nature of the damages. Pursuant to settlement guidelines, the City Attorney's Office settled this claim in the amount stated above and obtained a Property Damage Only Release signed by the claimant.

Based upon the above, 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

**PROPERTY DAMAGE ONLY RELEASE**

KNOW ALL MEN BY THESE PRESENTS that STEPHANIE WISNESKI, for and in consideration of One Hundred Thirty-one and 58/100 Dollars (\$131.58) 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 an accident on or about December 28<sup>th</sup>, 2008, when a City's snowplow struck a legally parked unoccupied vehicle owned by Stephanie Wisneski on West Mitchell Street in the 9400 Block, West Allis, WI, causing damage to the driver's side mirror of Ms. Wisneski's 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 as there were no bodily injuries as a result of 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.

This Release contains the ENTIRE AGREEMENT between the parties hereto, and the terms of this Release are contractual and not a mere recital.

**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 23 day of March, 2009.

Stephanie Wisneski  
Stephanie Wisneski

Subscribed and sworn to before me  
this 23 day of March, 2009.

Barbara M. Adams  
Notary Public, State of Wisconsin  
My Commission Expires: 10/24/10  
L/Je/Claims/Releases/RO OnlyS Wisneski



CITY CLERK/TREASURER'S OFFICE  
414/302-8200 or 414/302-8207 (Fax)  
[www.ci.west-allis.wi.us](http://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*

January 28, 2009

Ms. Stephanie Wisneski  
12135 W. Dearbourne Ave., Apt. 3  
Wauwatosa, WI 53226

Dear Ms. Wisneski:

This letter acknowledges receipt of your communication regarding vehicle damage allegedly sustained at the 9400 block of W. Mitchell St. on December 28, 2008.

The original document will be submitted to the Common Council at its meeting of February 3, 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

/amn

cc: City Attorney



January 16, 2009

RECEIVED

JAN 20 2009

CITY OF WEST ALLIS  
CLERK/TREASURER

Clerk Treasurer's Office  
7525 W. Greenfield Ave  
West Allis, WI 53214

To Whom It May Concern:

I am writing to you about an incident that took place on December 28<sup>th</sup>, 2008 at 1:47 PM. On that day, a city of West Allis Plow, going Westbound on Mitchell St, in the 9400 block, tore off my car's driver side mirror. My car was parked on the North side of Mitchell Street, on the 9400 block. The driver, Steven Saarl I believe it says, stopped and found me at my Mothers house, and said that he knocked my mirror off with his plow and he had called the police. Officer Mark Sopa came and got all our info. The accident report should be on file with the West Allis Police Dept for further info.

I am looking to please have the city pay to fix my mirror, and have enclosed a copy of a quote I received from Mastercraft Auto Body on S. 108<sup>th</sup> St in West Allis, one from Hiller Ford on S. 108<sup>th</sup> in Franklin, and ABRA Auto Body & Glass on 113<sup>th</sup> in West Allis. I would like to have the work done at Mastercraft, as they will be doing some other work for me, and I would like to have the mirror done at the same time. It looks to be a relatively inexpensive fix and I am hoping that you will cover the repair costs.

Please let me know the plan of action. I can be reached on my cell phone @ 414-254-0114. My current address is below.

Thank you,



Stephanie Wisneski  
12135 W. Dearbourne Ave., #3  
Wauwatosa, WI 53226

cc Atty

MASTERCRAFT AUTO BODY  
834 S. 108TH STREET  
WEST ALLIS, WI 53214  
PHONE: (414) 475-9610  
FAX: (414) 475-9602

CD LOG NO 2837-1 DATE 01/16/09

SHOP: INSP DATE: 01/16/09

OWNER: WISNESKI

POINT OF IMPACT: 0

LIC#: STATE: VIN: 1FAFP34NX6W254971  
BODY COLOR: MILEAGE:  
CONDITION: ACCTNG CTL#:

\*=USER-ENTERED VALUE E=REPLACE OEM NG=REPLACE NAGS  
EC=REPLACE ECONOMY UE=REPLACE OE SURPLUS UC=RECONDITIONED PRT  
UM=REMAN/REBUILT PRT EU=REPLACE SALVAGE EP=REPLACE PXN  
OE=REPLACE PXN OE SRPLS PC=PXN RECONDITIONED PM=PXN REMAN/REBUILT  
TE=PARTL REPL PRICE ET=PARTL REPL LABOR IT=PARTIAL REPAIR  
I=REPAIR L=REFINISH BR=BLEND REFINISH  
TT=TWO-TONE CG=CHIPGUARD SB=SUBLET  
N=ADDITIONAL LABOR RI=R&I ASSEMBLY P=CHECK  
AA=APPEAR ALLOWANCE RP=RELATED PRIOR UP=UNRELATED PRIOR

2006 FORD FOCUS ZX4 SE 4DOOR SEDAN 4CYL GASOLINE 2.0  
CODE: P1583C/B OPTNS A/24CDBNMQ

OPTIONS:  
TWO-STAGE - EXTERIOR SURFACES TWO-STAGE - INTERIOR SURFACES  
POWER DOOR LOCKS POWER WINDOWS  
ELEC REMOTE CONTROL MIRRORS AIR CONDITIONING  
ALARM SYSTEM OVERHEAD CONSOLE

OP	GDE	MC DESCRIPTION	MFG. PART NO.	PRICE	AJ%	B%	HOURS	R
EC0243		MIRROR, OUTER R/C	LT ECONOMY PART	53.00*			0.7	1
L 0243		MIRROR, OUTER R/C	LT REFINISH				0.5	4

2 ITEMS

FINAL CALCULATIONS & ENTRIES

OTHER PARTS 53.00  
PAINT MATERIAL 14.00  
PARTS & MATERIAL TOTAL 67.00  
TAX ON PARTS & MATERIAL @ 5.600% 3.75

LABOR RATE REPLACE HRS REPAIR HRS  
1-SHEET METAL 48.00 0.7 33.60

FROM : MASTERCRAFT AUTO BODY  
2006 FORD FOCUS ZX4 SE 4DOOR SEDAN  
CD LOG NO 2837-1

FAX NO. : 414-475-9602

Jan. 16 2009 12:54PM P2

2-MECH/ELEC	76.00		
3-FRAME	48.00		
4-REFINISH	48.00		
5-PAINT MATERIAL	28.00	0.5	
LABOR TOTAL			24.00
TAX ON LABOR		0	57.60
SUBLET REPAIRS		5.600%	3.23
TOWING			
STORAGE			

GROSS TOTAL

131.58

NET TOTAL

131.58

SHOPLINK U7345 ES CD LOG 2837-1 DATE 01/16/09 12:16:31AM R6.37 CD 01/09  
PXN: Y/00/00/00/00/00 CUM: 00/00/00/00/00 GEOCODE 53214  
HOST LOG  
(C) 1998 - 2008 AUDATEX NORTH AMERICA, INC.

HILLER FORD  
 6455 SOUTH 108TH STREET  
 FRANKLIN, WI 53132  
 OFFICE: 414-425 1000 FAX: 414-529-6048  
 FEDERAL ID #38-0874080

**\*\*\* PRELIMINARY ESTIMATE \*\*\***

01/16/2009 03:10 PM

**Owner**

**Owner:** STEPANIE WISNESKI  
**Address:** 2487A S. 44TH ST.  
**City State Zip:** Milwaukee, WI 53219

**Work/Day:**  
**Home/Evening:** (414)727-0550  
**FAX:**

**Inspection**

**Inspection Date:** 01/16/2009 03:11 PM

**Inspection Type:**

**Appraiser Name:** NED CERRA  
**Address:**  
**City State Zip:**  
**Email:** bodyshop@hillerford.com

**Appraiser License # :**  
**Work/Day:** (414)425-1000x602  
**FAX:** (414)529-6048

**Repairer**

**Repairer:** HILLER FORD  
**Address:** 6455 SOUTH 108TH. ST.  
**City State Zip:** FRANKLIN, WI 53132

**Contact:** NED CERRA  
**Work/Day:** (414)425-1000x268  
**FAX:** (414)529 6048

**Vehicle**

2006 Ford Focus ZX4 SE 4 DR Sedan  
 4cyl Gasoline 2.0  
 4 Speed Automatic

**Lic Expire:**  
**Veh Insp# :**  
**Condition:**  
**Ext. Refinish:** Two-Stage

**VIN:** 1FAPP34NX8W254971  
**Mileage Type:** Actual  
**Code:** P1583C  
**Int. Refinish:** Two-Stage

**Options**

AM/FM CD Player	Air Conditioning	Alarm System
Center Console	Dual Airbags	Intermittent Wipers
Keyless Entry System	Lighted Entry System	MP3 Player
Overhead Console	Power Brakes	Power Door Locks
Power Mirrors	Power Steering	Power Windows
Rear Window Defroster	Rem Trunk-L/Gate Release	Split Folding Rear Seat
Theft Deterrent System	Tinted Glass	Velour/Cloth Seats

**Damages**

Line	Op	Guide	MC	Description	MFR.Part No.	Price	ADJ%	B%	Hours	R
1	E	243		Mirror,Outer R/C LT	6S4Z17683BA	\$58.00			0.7	SM
1		Items								

**Estimate Total & Entries**

**Gross Parts** \$58.00  
**Parts & Material Total** \$58.00  
**Tax on Parts & Material** @ 5.600% \$3.14



2006 Ford Focus ZX4 SE 4 DR Sedan  
Claim #:

01/16/2008 03:10 PM

Labor	Rate	Replace Hrs	Repair Hrs	Total Hrs	
Sheet Metal (SM)	\$52.00		0.7	0.7	\$36.40
Mech/Elec (ME)	\$90.00				
Frame (FR)	\$52.00				
Refinish (RF)	\$52.00				
Paint Materials	\$32.00				
<b>Labor Total</b>				0.7 Hours	<b>\$36.40</b>
<b>Tax on Labor</b>			@ 5.800%		<b>\$2.04</b>
<b>Gross Total</b>					<b>\$97.58</b>
<b>Net Total</b>					<b>\$97.58</b>


Alternate Parts No  
Recycled Parts NOT REQUESTED

Audatex Estimating 5.0.520 ES 01/16/2008 03:12 PM REL 5.0.520 DT 12/01/2008  
Copyright (C) 2008 Audatex North America, Inc.

THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF ONE OR MORE REPLACEMENT PARTS SUPPLIED BY A SOURCE OTHER THAN THE MANUFACTURER OF YOUR MOTOR VEHICLE. WARRANTIES APPLICABLE TO THESE REPLACEMENT PARTS ARE PROVIDED BY THE MANUFACTURER OR DISTRIBUTOR OF THE REPLACEMENT PARTS RATHER THAN BY THE MANUFACTURER OF YOUR MOTOR VEHICLE.

**Op Codes**

- \* = User-Entered Value
- EC = Replace Economy
- ET = Partial Replace Labor
- TE = Partial Replace Price
- L = Refinish
- TT = Two-Tone
- BR = Blend Retinish
- CG = Chipguard
- AA = Appearance Allowance
- E = Replace OEM
- OE = Replace PXN OE Srpls
- EP = Replace PXN
- PM = Replace PXN Reman/Rebll
- PC = Replace PXN Reconditioned
- SB = Sublet Repair
- I = Repair
- RI = R & I Assembly
- RP = Related Prior Damage
- NG = Replace NAGS
- UE = Replace OE Surplus
- EU = Replace Recycled
- UM = Replace Reman/Rebuilt
- UC = Replace Reconditioned
- N = Additional Labor
- IT = Partial Repair
- P = Check



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Audatex Estimating is a trademark of Audatex North America, Inc.

01/16/2009 at 03:26 PM  
75698

Job Number:

**ABRA - WEST ALLIS**  
Federal ID #:411653085  
RIGHT THE FIRST TIME, ON TIME  
1434 S. 113TH STREET  
WEST ALLIS, WI 53214  
(414)607-8810 Fax: (414)607-8830

**PRELIMINARY ESTIMATE**

Written By: CASSIDAY TAMILLO  
Adjuster:

<b>Insured:</b>	<b>Claim #</b>
<b>Owner:</b> STEPHANIE WISNESKI	<b>Policy #</b>
<b>Address:</b> 12135 W DEARBORN AVE	<b>Deductible:</b>
#3	
WAUWATOSA, WI 53226	<b>Date of Loss:</b>
<b>Cellular:</b> (414)254-0114	<b>Type of Loss:</b>
<b>Fax:</b> (262)373-4279	<b>Point of Impact:</b>
<b>Inspect</b> ABRA - WEST ALLIS	<b>Business:</b> (414)607-8810
<b>Location:</b> 1434 S. 113TH STREET	
WEST ALLIS, WI 53214	

**Insurance**  
**Company:**

Days to Repair

2006 FORD FOCUS ZX4 SE 4-2.0L-FI 4D SED GREY Int:  
VIN: 1FAFP34NX6W254971 Lic: 496-EDG WI Prod Date: Odometer: 42000

Air Conditioning	Rear Defogger	Intermittent Wipers
Keyless Entry	Dual Mirrors	Console/Storage
Clear Coat Paint	Power Steering	Power Brakes
Power Windows	Power Locks	Power Mirrors
AM Radio	FM Radio	Stereo
Search/Seek	CD Player	Driver Air Bag
Passenger Air Bag	Cloth Seats	Bucket Seats
5 Speed Transmission	Overdrive	Full Wheel Covers

NO.	OP.	DESCRIPTION	QTY	EXT.	PRICE	LABOR	PAINT
1		FRONT DOOR					
2	Repl LT Mirror assy power w/o heated glass		1		56.00	0.6	0.0
Subtotals ==>					56.00	0.6	0.0

**Estimate Notes:**

SHOP HAS NOT SEEN VEHICLE, ESTIMATE BASED ON INFORMATION VIA PHONE FROM CUSTOMER ONLY. IF THERE IS ADDITIONAL DAMAGE RESULTING FROM THIS INCIDENT, SHOP WILL NEED TO SEE THE VEHICLE.

01/16/2009 at 03:26 PM  
75698

Job Number:

**PRELIMINARY ESTIMATE**

2006 FORD FOCUS ZX4 SE 4-2.0L-FI 4D SED GREY Int:

Parts		56.00
Body Labor	0.6 hrs @ \$ 52.00/hr	31.20
-----		
SUBTOTAL		\$ 87.20
Sales Tax	\$ 87.20 @ 5.6000%	4.88
-----		
GRAND TOTAL		\$ 92.08
-----		
CUSTOMER PAY		\$ 0.00
INSURANCE PAY		\$ 92.08

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.

Estimate based on MOTOR CRASH ESTIMATING GUIDE. Unless otherwise noted all items are derived from the Guide DR2JK00, CCC Data Date 01/02/2009, and the parts selected are OEM-parts manufactured by the vehicles Original Equipment Manufacturer. OEM parts are available at OE/Vehicle dealerships. OPT OEM (Optional OEM) or ALT OEM (Alternative OEM) parts are OEM parts that may be provided by or through alternate sources other than the OEM vehicle dealerships. OPT OEM or ALT OEM parts may reflect some specific, special, or unique pricing or discount. OPT OEM or ALT OEM parts may include "Blemished" parts provided by OEM's through OEM vehicle dealerships. Asterisk (\*) or Double Asterisk (\*\*) indicates that the parts and/or labor information provided by MOTOR may have been modified or may have come from an alternate data source. Tilde sign (~) items indicate MOTOR Not-Included Labor operations. Non-Original Equipment Manufacturer aftermarket parts are described as AM, Qual Repl Parts or Comp Repl Parts which stands for Competitive Replacement Parts. Used parts are described as LKQ, Qual Recy Parts, RCY, or USED. Reconditioned parts are described as Recond. Recored parts are described as Recore. NAGS Part Numbers and Benchmark Prices are provided by National Auto Glass Specifications. Labor operation times listed on the line with the NAGS information are MOTOR suggested labor operation times. NAGS labor operation times are not included. Pound sign (#) items indicate manual entries. Some 2000 vehicles contain minor changes from the previous year. For those vehicles, prior to receiving updated data from the vehicle manufacturer, labor and parts data from the previous year may be used. The Pathways estimator has a complete list of applicable vehicles. Parts numbers and prices should be confirmed with the local dealership.

CCC Pathways - A product of CCC Information Services Inc.



OFFICE OF THE CITY ATTORNEY

Scott E. Post  
City Attorney

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

April 3, 2009

Common Council  
City of West Allis

RE: City Attorney's Report of Claims/Lawsuits

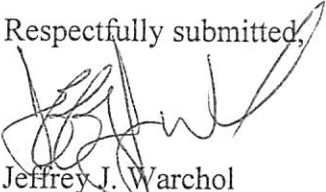
Dear Council Members:

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 claims/lawsuits have been paid and placed on file:**

Ziklag Global Investments, Inc. (\$41,000.00)  
Dianne Kerzner (\$242.88)  
Jeffrey Jasniewski (\$1,562.16)  
Stephanie Wisneski (\$131.58)

Respectfully submitted,

  
Jeffrey J. Warchol  
Assistant City Attorney

JJW:da  
Enclosures

cc: Thomas E. Mann, CVMIC