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City of West Allis **Matter Summary**

7525 W. Greenfield Ave. West Allis, WI 53214

File	Number	Title Status									
2	008-0210	Claim		Cl	aim Report						
		behalf of Guille	Notice of Circumstances of Claim submitted by Scott R Winkler, Winkler Law Firm, S.C. on behalf of Guillermo Gallegos Lopez and Maribel Barron regarding injuries and damages allegedly sustained at South 72 Street and West Oklahoma Avenue on March 1, 2008.								
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OFFICE OF THE CITY ATTORNEY

Scott E. Post City Attorney

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

November 7, 2008

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 (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 paid and placed on file:

Guillermo Gallegos Lopez (\$2,000.00/PD) and Maribel Barron (\$15,000.00/PI)

This is a combined claim for property damage and personal injury that occurred to the claimants on March 1st, 2008, when a car driven by the claimant's collided with a vehicle owned by the City of West Allis and operated by an on duty City of West Allis police officer at the intersection of South 72nd Street and West Oklahoma Avenue in the City of West Allis. At said time and place, the claimants were heading eastbound on West Oklahoma Avenue when the police vehicle came directly into the claimants' lane while the officer attempted to make a left hand turn to head south on 72nd Street causing the two vehicles to collide. The police officer was following another police vehicle to a non-emergency call so the emergency lights on the police vehicle were not in operation at the time of the collision. Due to a large snowbank in the meridian, the officer simply could not see safely into on coming traffic and unfortunately attempted to get across Oklahoma Avenue without leaving enough room for clearance of the claimant's vehicle.

As a result of the accident, the claimant's (Lopez) vehicle was damaged beyond repair. The claimant (Barron) injured her neck, back and chest from the impact of the collision as the year and make of the claimant's vehicle was not equipped with passenger front airbags. Claimant (Barron) was transported to the hospital from the scene of the accident. The claimants hired an attorney who filed a claim against the City in the amount of \$26,000.00 for claimant's (Barron) personal injuries and \$2,600.00 for the vehicle damage to claimant's (Lopez) car. This matter was investigated by the Motor Vehicle Crash Review Board and then Acting Chief of Police Michael Jungbluth who both found the officer to be at fault for the accident. The City Attorney's Office concurred with the finding of fault on the part of the officer in that said officer simply failed to yield the right-of-way to the claimant when making a left turn. Any discipline of the officer for this incident would have been handled directly by the West Allis Police Department.

Common Council November 7, 2008 Page -2-

Based upon a finding of negligence on the part of the City, the City Attorney's Office negotiated settlement claims of \$2,000.00 for the property damage and \$15,000.00 for the personal injury claim of claimant Barron. Although both claims were substantiated by the proper documentation, the settlement amounts were greatly reduced from the amounts originally demanded by the claimants. Because the personal injury portion of the claim exceeded the City Attorney's settlement guidelines, this portion of the claim was scheduled as an agenda item before the Administration and Finance Committee on October 7th, 2008, and was approved for payment at that time.

To date, the City Attorney's Office paid both claims in the amounts stated herein and obtained the appropriate Release of Liability forms from each claimant. Therefore, this matter should be placed on file.

Respectfully submitted,

Jeffrey J. Warchol
Assistant City Attorney

JJW:da

RELEASE OF ALL CLAIMS

FOR AND IN CONSIDERATION of the payment to MARIBEL BARRON at this time of the sum of Fifteen Thousand and 00/100 Dollars (\$15,000.00), the receipt of which is hereby acknowledged, I, being of lawful age do hereby release, acquit, and forever 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 other persons, firms or corporations who are or might be liable from any and all claims, demands, damages, costs, actions and causes of action of whatever kind or nature which I may now have or may hereafter have, on account of, or in any way growing out of, any and all known and unknown bodily injuries, personal injuries and property damage, whether developed or undeveloped, resulting or to result from an accident that occurred on or about March 1st, 2008, when a West Allis Police squad car, while traveling westbound on West Oklahoma, turned left onto the eastbound lanes at the intersection of South 72nd Street and West Oklahoma Avenue and was struck by the vehicle in which Ms. Barron was a passenger, resulting in Ms. Barron suffering neck/back sprain and chest pains from the accident. I hereby declare and represent that any injuries sustained are not permanent and in making this Release and Agreement it is understood and agreed that I rely wholly upon my own judgment, belief, and knowledge of the nature, extent and duration of said injuries, and that I have not been influenced to any extent whatever in making this Release by any representations or statements regarding said injuries, or regarding any other matters, made by the persons, firms or corporations who are hereby released, or by any person or persons representing him or them, or by any physician or surgeon by him or them employed.

It is further understood and agreed that this settlement is the compromise of doubtful and disputed claims and that the payment of said amount is not to be construed as an admission of liability upon the part of said persons, firms, or corporations released; liability being by it, him or them expressly denied.

It is further understood and agreed that this Release and payment pursuant thereto is not to be construed as a waiver by or estoppel of any party released to prosecute a claim or action 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 Jy day of October

Subscribed and sworn to before me

this day of October

Notary Public, State of Wisconsin

My Commission: /

L/jeff/claims/releases/Al Claims-M Barron

RELEASE OF ALL CLAIMS

FOR AND IN CONSIDERATION of the payment to GUILLERMO GALLEGOS LOPEZ at this time of the sum of Two Thousand and 00/100 Dollars (\$2,000.00), the receipt of which is hereby acknowledged, I, being of lawful age do hereby release, acquit, and forever 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 other persons, firms or corporations who are or might be liable from any and all claims, demands, damages, costs, actions and causes of action of whatever kind or nature which I may now have or may hereafter have, on account of, or in any way growing out of, any and all known and unknown bodily injuries, personal injuries and property damage, whether developed or undeveloped, resulting or to result from an accident that occurred on or about March 1st, 2008, when a West Allis Police squad car, while traveling westbound on West Oklahoma, turned left onto the eastbound lanes at the intersection of South 72nd Street and West Oklahoma Avenue and was struck by the vehicle driven by Mr. Lopez, resulting in property damage to both Mr. Lopez' vehicle and the West Allis Police squad car. I hereby declare and represent that any injuries sustained are not permanent and in making this Release and Agreement it is understood and agreed that I rely wholly upon my own judgment, belief, and knowledge of the nature, extent and duration of said injuries, and that I have not been influenced to any extent whatever in making this Release by any representations or statements regarding said injuries, or regarding any other matters, made by the persons, firms or corporations who are hereby released, or by any person or persons representing him or them, or by any physician or surgeon by him or them employed.

It is further understood and agreed that this settlement is the compromise of doubtful and disputed claims and that the payment of said amount is not to be construed as an admission of liability upon the part of said persons, firms, or corporations released; liability being by it, him or them expressly denied.

It is further understood and agreed that this Release and payment pursuant thereto is not be construed as a waiver by or estoppel of any party released to prosecute a claim or action 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 $\frac{7}{2}$ day of $\frac{1}{2}$ day of

Guillermo Gallegos Lonez

Subscribed and sworn to before me

this 7 day of october

__, 2008.

Notary Public, State of Wisconsin

My Commission:

L/jeff/claims/releases/Al Claims-Lopez

RECEIVED

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WEST ALLIS CITY ATTORNEY

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MAR 2 8 2008
CITY OF WEST ALLIS
CLERK/TREASURER

NOTICE OF CIRCUMSTANCES OF CLAIM PER SEC. 893.80(1)(a) WIS. STATS.

CITY OF WEST ALLIS and CITY OF WEST ALLIS POLICE OFFICE CHRISTINA HAISER C/O CITY CLERK
7525 West Greenfield Ave.
West Allis, WI 53214

This is a written notice of the circumstances of claim provided to the City of West Allis and City of West Allis Police Office Christina Haiser pursuant to sec. 893.80(1)(a) Wis. Stats. The claimants are **GUILLERMO GALLEGOS LOPEZ and MARIBEL BARRON**, both residing at 2560 S. 15th Place in the City and County of Milwaukee. They are both represented in this matter by Winkler Law Firm, S.C., by Attorney Scott Winkler, State Bar Number 1013619. These two individuals were the driver and front-seat passenger, respectively, in a motor vehicle that was struck and damaged by a City of West Allis police squad car, on March 1, 2008, with Ms. Maribel Barron having sustained and suffered various personal injuries due to said collision.

Mr. Guillermo Gallegos Lopez's motor vehicle, a 1994 Saturn, SL2, 4 door, black, was severely damaged and probably totaled, on March 1, 2008, when said motor vehicle was struck by a City of West Allis police squad vehicle being operated by a City of West Allis patrol office named Christina Haiser, near the intersection South 72nd St and W Oklahoma Ave., in the City of Milwaukee, as stated with more particularity in Wisconsin Motor Vehicle Accident Report number 9H0288G, a true and correct copy of which is attached hereto and incorporated by reference herein. As a result of this motor vehicle accident, caused by the negligent operation of a City of West Allis police vehicle by Patrol Officer Christina Haiser, Mr. Gallegos-Lopez, by and through counsel, makes claim herein against the City of West Allis and Officer Haiser for the property damage to his vehicle. As a result of this motor vehicle accident, caused by the negligent operation of a City of West Allis police vehicle by Patrol Office Christina Haiser, Ms. Maribel Barron, by and through counsel, makes claim against the City of West Allis and Officer Haiser, for damages to her person including medical expenses, wage loss and pain and suffering i.e., bodily injury damages.

Dated and signed at Milwaukee, WI this 27th day of March 2008

WINKLER LAW FIRM, S.C.,

By:

PO Address 633 West Wisconsin Ave., ste 1500 Milwaukee, Wi 53203 (414) 271 0000 Scott R Winkler.

State Bar No 1013619

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POLICE

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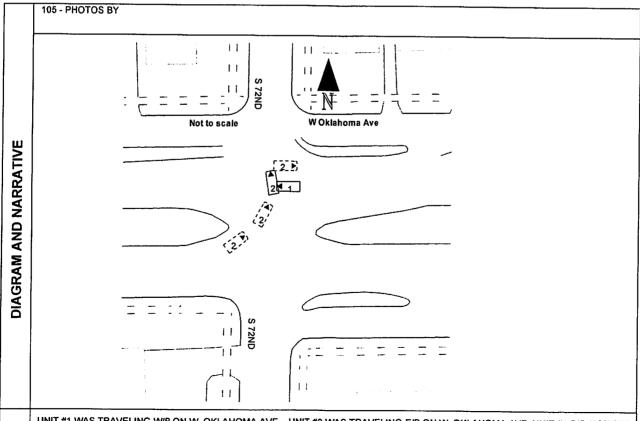
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	Occupant						
	Address	Same As Operator	-				
	65 - Unit No 01	66 - Occupant Last Name BARRON		66 - First N		66 - Middle Initi	al 66 - Suffix
01	68 - Address S 2560 S 15TH	treet & Number		68 - PO Bo	х		
	68 - City MILWAUKE			68 - State WI	68 - Zip Code 53215		
JPAN	67 - Date of Bir 11/19/1985	th		69 - Sex FEMALE			
OCCUPANT	71 - Seat Positi FRONT-SEA	on T-RIGHT-SIDE-(TRAIN I	ENGINEER)	, I	72 - Safety Equipme SHOULDER-BEL		LT-USED
	70 - Injury Seve C - POSSIBL		73 - Airbag NON-DEPLOYED	75 - Ejed NOT-E		77	l Transport
	76 - Trapped/E		78 - Agency Space	! -			•

Diagram and Narrative



UNIT #1 WAS TRAVELING W/B ON W. OKLAHOMA AVE. UNIT #2 WAS TRAVELING E/B ON W. OKLAHOMA AVE. UNIT #2 DID NOT SEE UNIT #1 BECAUSE OF A SNOW BANK, AND TURNED IN FRONT OF UNIT #1. UNIT #1 COULD NOT STOP AND STRUCK UNIT #2. UNIT#2 IS A WEST ALLIS SQUAD AND WAS RESPONDING TO A CALL WITHOUT THE EMERGENCY LIGHTS OPERATING.

SUPPLEMENTAL REPORT

****** Wisconsin Motor Vehicle Accident Report MV4000e 01/2005

PK2007

UNIT#1 WAS DRIVING W/B ON W. OKLAHOMA AVE. UNIT #1 DRIVER STATED THAT UNIT #2 TURNED IN FRONT OF HIM AND HE DID NOT HAVE TIME TO STOP. UNIT#1 ALSO STATED THAT UNIT#2 DID NOT HAVE THE EMERGENCY LIGHTS OPERATING.

UNIT #2 STATED THAT WHEN SHE WENT TO TURN NORTH ONTO S. 72ND ST, THERE WAS A BIG SNOW BANK AT THE INTERSECTION THAT WAS BLOCKING HER VIEW AND SHE DID NOT SEE UNIT#1, AND CONTINUED WITH HER TURN. UNIT#2 STATED THAT SHE DID NOT HAVE HER EMERGENCY LIGHTS ON. UNIT #2 WAS AN ON-DUTY SQUAD RESPONDING TO AN ASSIGNMENT.

UNIT#1 PASSENGER, BARRON, WAS TRANSPORTED TO ST. LUKES BY CURTIS 351. AT ST. LUKES BARRON WAS TREATED BY DR. PETRUCCI AT 5:54AM AND WAS RELEASED ON HER OWN, WITH NO NOTICIBLE INJURIES.

THIS REPORT WAS APPROVED BY SGT. WILSON. 3-01-08 AT 7:35AM.

9H0288G

Officer Information

	125 - Officer Last Name KROHN		125 - F MICH	irst Name AEL	•	125 - Middle C	Initial	131 - Officer ID 17797
NOL	129 - Law Enforcement Agency 006		0 - Law Enforcement Agence LWAUKEE POLICE DE	•	ENT			
INFORMATIO	126 - Law Enforcement Agency 749 WEST STATE STREET		Street & Number					
FOF	127 - City MILWAUKEE		127 - State WI		127 - Zip Code 53201		128 - Telephon (414) 933-444	
	132 - Date Notified 03/01/2008	133 - T 0454	33 - Time Notified (Military Time) 454		Time Arrived (Military Time)	135 - Date 0 03/01/2008	•
OFFICER	Agency Accident Number 080610294		Number RICT 6	19 - S	pecial Study	-		
0	18 - Agency Space			•				

NOTICE OF CIRCUMSTANCES OF CLAIM PER SEC. 893.80(1)(a) WIS. STATS.

CITY OF WEST ALLIS and CITY OF WEST ALLIS POLICE OFFICE CHRISTINA HAISER C/O CITY CLERK 7525 West Greenfield Ave. West Allis, WI 53214

This is a written notice of the circumstances of claim provided to the City of West Allis and City of West Allis Police Office Christina Haiser pursuant to sec. 893.80(1)(a) Wis. Stats. The claimants are GUILLERMO GALLEGOS LOPEZ and MARIBEL BARRON, both residing at 2560 S. 15th Place in the City and County of Milwaukee. They are both represented in this matter by Winkler Law Firm, S.C., by Attorney Scott Winkler, State Bar Number 1013619. These two individuals were the driver and front-seat passenger, respectively, in a motor vehicle that was struck and damaged by a City of West Allis police squad car, on March 1, 2008, with Ms. Maribel Barron having sustained and suffered various personal injuries due to said collision.

Mr. Guillermo Gallegos Lopez's motor vehicle, a 1994 Saturn, SL2, 4 door, black, was severely damaged and probably totaled, on March 1, 2008, when said motor vehicle was struck by a City of West Allis police squad vehicle being operated by a City of West Allis patrol office named Christina Haiser, near the intersection South 72nd St and W Oklahoma Ave., in the City of Milwaukee, as stated with more particularity in Wisconsin Motor Vehicle Accident Report number 9H0288G, a true and correct copy of which is attached hereto and incorporated by reference herein. As a result of this motor vehicle accident, caused by the negligent operation of a City of West Allis police vehicle by Patrol Officer Christina Haiser, Mr. Gallegos-Lopez, by and through counsel, makes claim herein against the City of West Allis and Officer Haiser for the property damage to his vehicle. As a result of this motor vehicle accident, caused by the negligent operation of a City of West Allis police vehicle by Patrol Office Christina Haiser, Ms. Maribel Barron, by and through counsel, makes claim against the City of West Allis and Officer Haiser, for damages to her person including medical expenses, wage loss and pain and suffering i.e., bodily injury damages.

Dated and signed at Milwaukee, WI this 27th day of March 2008

WINKLER LAW FIRM, S.C.,

By:

State Bar No T0136

Served Upon

Milwaukee, Wi 53203 (414) 271 0000

633 West Wisconsin Ave., ste 1500

PO Address

Wisconsin Motor Vehicle Accident Report MV4000e 01/2005 PK2007

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ACCIDENT # 080610294

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	26 - Address Street & 1 2560 S 15TH PL	Jamper								26 - PO Box
	32 - Date Of Birth 02/21/1983	4	33 - Sex					· [Degree Degree Ger
	S5 - Operator/Pedestria	n Last Nar	we			LERMO			Se - Wi	u2 - 32 Isilini əlbbi
	29 - Driver's License M				91612 - 06: Wi	31 - Expira ;2014	seY noi			
	D CTV22		2\ - FUG	gotseme	Slut		36		iorem	ial Motor Vehicle

30 - State

31 - Expiration Year

2014

25 - First Name

CHRISTINA

DCLASS

HAISER
32 - Date Of Birth

07/10/1979

29 - Driver's License Number

25 - Operator/Pedestrian Last Name

33 - Sex

FEMALE

H2601137975005

Operating Commercial Motor Vehicle

25 - Middle Initial

25 - Suffix

34 - On Duty Accident

POLICE

Page 3 of 5

	26 - Address Street & Number 11301 W. LINCOLN AVE						-		26 - PO	Вох	
	27 - City WEST ALLIS				27 - State WI	27 - 2 5322	ip Code 7		28 - Telephor (414) 302-8		
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IAN	38 - Injury Severity N - NO APPARENT INJUR		1 - Airbag ION-DEPLO	DYED		- Ejecto OT-EJ	ed ECTED		44 Medic	cal Transport	
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Wisconsin Motor Vehicle Accident Report MV4000e 01/2005

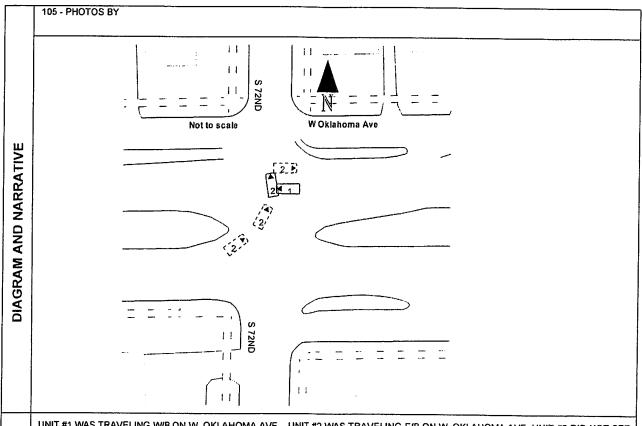
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Diagram and Narrative



UNIT #1 WAS TRAVELING W/B ON W. OKLAHOMA AVE. UNIT #2 WAS TRAVELING E/B ON W. OKLAHOMA AVE. UNIT #2 DID NOT SEE UNIT #1 BECAUSE OF A SNOW BANK, AND TURNED IN FRONT OF UNIT #1. UNIT #1 COULD NOT STOP AND STRUCK UNIT #2. UNIT#2 IS A WEST ALLIS SQUAD AND WAS RESPONDING TO A CALL WITHOUT THE EMERGENCY LIGHTS OPERATING.

SUPPLEMENTAL REPORT

Wisconsin Motor Vehicle 9H0288G Accident Report MV4000e 01/2005

PK2007

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THIS REPORT WAS APPROVED BY SGT. WILSON. 3-01-08 AT 7:35AM.

Officer Information

•	125 - Officer Last Name KROHN			First Name 125 - Middle HAEL C		Initial	131 - Officer ID 17797	
NOIL	129 - Law Enforcement Agence	,	0 - Law Enforcement Agend LWAUKEE POLICE DE	•	ENT			
ORMAT	126 - Law Enforcement Agency Address Street & Number 749 WEST STATE STREET							
INFOR	127 - City MILWAUKEE	1	127 · State Wi		127 - Zip Code 53201		128 - Telephone Number (414) 933-4444 EXT.	
K	132 - Date Notified 03/01/2008	133 - T 0454	33 - Time Notified (Military Time) 454		134 - Time Arrived (Military Time) 0454		135 - Date 03/01/20	e Of Report 108
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0	18 - Agency Space					, .		





OFFICE OF THE CITY ATTORNEY

Scott E. Post City Attorney

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

November 10, 2008

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 paid and placed on file:

Guillermo Gallegos Lopez (\$2,000/PD) and Maribel Barron (\$15,000/PI)

The following claim/lawsuit has been denied:

Paul Esperes (\$2,800)

Respectfully submitted

Assistant City Attorney

JJW:da Enclosures

cc: Thomas E. Mann, CVMIC