

#14



# City of West Allis Matter Summary

7525 W. Greenfield Ave.  
West Allis, WI 53214

File Number	Title	Status
2008-0210	Claim	Claim Report
<p>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.</p> <p>Introduced: 4/14/2008</p> <p>Controlling Body: Administration &amp; Finance Committee</p>		

## COMMITTEE RECOMMENDATION

*POF*

ACTION  
DATE:  
NOV 18 2008

MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
		Barczak				
		Czaplewski				
		Kopplin	✓			
		Lajsic	✓			
X		Narlock	✓			
	X	Reinke	✓			
		Roadt				
		Sengstock				
		Vitale	✓			
		Weigel				
TOTAL			5			

## SIGNATURE OF COMMITTEE MEMBER

*Kurt Kopplin*

Chair Vice-Chair Member

## COMMON COUNCIL ACTION

~~APPROVAL~~

**PLACE ON FILE**

ACTION  
DATE:  
NOV 18 2008

MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
		Barczak	✓			
		Czaplewski	✓			
✓		Kopplin	✓			
		Lajsic	✓			
	✓	Narlock	✓			
		Reinke	✓			
		Roadt	✓			
		Sengstock	✓			
		Vitale	✓			
		Weigel	✓			
TOTAL			10			



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 1<sup>st</sup>, 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 72<sup>nd</sup> 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 72<sup>nd</sup> 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.



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 7<sup>th</sup>, 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 1<sup>st</sup>, 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 72<sup>nd</sup> 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.

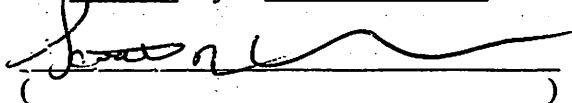
This Release contains the ENTIRE AGREEMENT between the parties hereto, and the terms of this Release are contractual and not a mere recital.

**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 24 day of October, 2008.

  
\_\_\_\_\_  
Maribel Barron

Subscribed and sworn to before me  
this 24 day of October, 2008.

  
( )

Notary Public, State of Wisconsin

My Commission: 15 permanent

**RECEIVED**  
OCT 27 2008  
WEST ALLIS  
CITY ATTORNEY

**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 1<sup>st</sup>, 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 72<sup>nd</sup> 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.

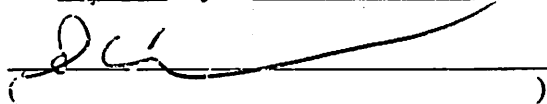
This Release contains the ENTIRE AGREEMENT between the parties hereto, and the terms of this Release are contractual and not a mere recital.

**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 7 day of October, 2008.

  
Guillermo Gallegos Lopez

Subscribed and sworn to before me this 7 day of October, 2008.

  
Notary Public, State of Wisconsin  
My Commission: permanent

**RECEIVED**

OCT 9 2008

WESTALLIS  
CITY ATTORNEY

096872

RECEIVED

MAR 28 2008

CITY OF WEST ALLIS  
CLERK/TREASURER

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

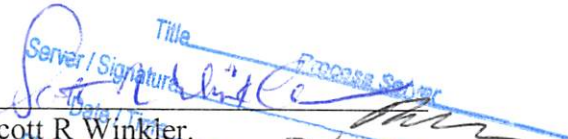
CITY OF WEST ALLIS and CITY OF WEST ALLIS POLICE OFFICE CHRISTINA HAISER  
C/O CITY CLERK  
7525 West Greenfield Ave.  
West Allis, WI 53214

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. 15<sup>th</sup> 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 72<sup>nd</sup> 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 27<sup>th</sup> day of March 2008

WINKLER LAW FIRM, S.C.,

By:   
Server / Signatory  
Title: Process Server  
Scott R Winkler.  
Place of Service: 3/28/08  
State Bar No. 1013619  
Manner of Service: POE 224  
Served Upon: Personal / Substitute

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

**OPERATOR/PEDESTRIAN 01**

<input checked="" type="checkbox"/> Reportable Accident		<input type="checkbox"/> On Emergency		Amended <input type="checkbox"/>		DOT Document Number 9H0288G		Document Override Number	
Agency Accident Number 080610294		Police Number DISTRICT 6		5 - Time of Accident (Military Time) 0454		6 - Total Units 02		7 - Total Injured 01	
4 - Accident Date 03/01/2008		3 - Municipality MILWAUKEE - 40		3 - Municipality MILWAUKEE - 57, CITY		11 - Accident Location INTERSECTION		14 - On Hwy No. 72ND ST S	
14 - On Hwy No. 72ND ST S		16 - From/At Street Name OKLAHOMA AVE W		12 - Latitude		13 - Longitude		80 - First Harmful Event	
17 - Structure Type		17 - Structure Number		93 - Manner of Collision ANGLE		112 - Access Control NO CONTROL		113 - Road Curvature STRAIGHT	
112 - Access Control NO CONTROL		113 - Road Curvature STRAIGHT		113 - Road Terrain LEVEL/FLAT		Surface Type BLACKTOP (BITUMINOUS) - 2		115 - Traffic Way DIVIDED-HIGHWAY-MEDIAN-STRIP-WITHOUT-TRAFFIC-BARRIER	
117 - Relation To Roadway ON-ROADWAY		114 - Light Condition DARK-LIGHTED		116 - Road Surface Condition DRY		118 - Weather CLOUDY		9 - Hit and Run <input type="checkbox"/>	
9 - Hit and Run <input type="checkbox"/>		9 - Government Property <input type="checkbox"/>		9 - Fire <input type="checkbox"/>		9 - Photos Taken <input type="checkbox"/>		9 - Trailer or Towed <input type="checkbox"/>	
9 - Truck, Bus, or Hazardous Materials <input type="checkbox"/>		9 - Load Spillage <input type="checkbox"/>		9 - Construction Zone <input type="checkbox"/>		9 - Names Exchanged <input checked="" type="checkbox"/>		101 - Supplemental Reports <input checked="" type="checkbox"/>	
101 - Supplemental Reports <input checked="" type="checkbox"/>		102 - Witness Statements <input type="checkbox"/>		103 - Measurements Taken <input type="checkbox"/>		79 - E-M S Number CURTIS 351		29 - Driver's License Number G422808306105	
29 - Driver's License Number G422808306105		30 - State WI		31 - Expiration Year 2014		34 - On Duty Accident <input type="checkbox"/>		25 - Operator/Pedestrian Last Name GALLEGOS LOPEZ	
25 - Operator/Pedestrian Last Name GALLEGOS LOPEZ		25 - First Name GUILLEMO		26 - Middle Initial		26 - Suffix		32 - Date Of Birth 02/21/1983	
32 - Date Of Birth 02/21/1983		33 - Sex MALE		26 - Address Street & Number 2560 S 15TH PL		26 - PO Box		27 - City MILWAUKEE	
27 - City MILWAUKEE		27 - State WI		27 - Zip Code 53215		28 - Telephone Number (414) 313-7001 EXT.		39 - Seat Position FRONT-SEAT-LEFT-SIDE-(MC/BIKE DRIVER, TRAIN CONDUCTOR)	
39 - Seat Position FRONT-SEAT-LEFT-SIDE-(MC/BIKE DRIVER, TRAIN CONDUCTOR)		40 - Safety Equipment SHOULD-BELT-AND-LAP-BELT-USED		42 - Ejected NOT-EJECTED <input type="checkbox"/>		44 - Medical Transport <input type="checkbox"/>		38 - Injury Severity N - NO APPARENT INJURY	
38 - Injury Severity N - NO APPARENT INJURY		41 - Airbag DEPLOYED		92 - Pedestrian Location		92 - Pedestrian Action NOT-TRAPPED		119 - What Driver Was Doing GOING-STRAIGHT	
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 - 1st Statute No.		64 - 2nd Statute No.		64 - 3rd Statute No.		64 - 4th Statute No.		64 - 5th Statute No.	
64 - 3rd Statute No.		64 - 4th Statute No.		64 - 5th Statute No.		122 - Driver Factors NOT-APPLICABLE		88 - Driver or Pedestrian Cond APPEARED NORMAL	
88 - Driver or Pedestrian Cond APPEARED NORMAL		89 - Substance Presence NEITHER-ALCOHOL-NOR-DRUGS-PRESENT		90 - Alcohol Test TEST NOT GIVEN		91 - Drug Test TEST-NOT-GIVEN		90 - Alcohol Content	
90 - Alcohol Content		91 - Drug Test TEST-NOT-GIVEN							

**GENERAL INFORMATION**

Unit Status		81 - Most Harmful Event: Collision With MOTOR VEHICLE IN TRANSPORT		23 - Dir Of Travel WEST		24 - Speed Limit 35		36 - Operating as Classified D CLASS	
36 - Operating as Classified D CLASS		37 - Endorsements		35		Operating Commercial Motor Vehicle <input type="checkbox"/>		29 - Driver's License Number G422808306105	
29 - Driver's License Number G422808306105		30 - State WI		31 - Expiration Year 2014		34 - On Duty Accident <input type="checkbox"/>		25 - Operator/Pedestrian Last Name GALLEGOS LOPEZ	
25 - Operator/Pedestrian Last Name GALLEGOS LOPEZ		25 - First Name GUILLEMO		26 - Middle Initial		26 - Suffix		32 - Date Of Birth 02/21/1983	
32 - Date Of Birth 02/21/1983		33 - Sex MALE		26 - Address Street & Number 2560 S 15TH PL		26 - PO Box		27 - City MILWAUKEE	
27 - City MILWAUKEE		27 - State WI		27 - Zip Code 53215		28 - Telephone Number (414) 313-7001 EXT.		39 - Seat Position FRONT-SEAT-LEFT-SIDE-(MC/BIKE DRIVER, TRAIN CONDUCTOR)	
39 - Seat Position FRONT-SEAT-LEFT-SIDE-(MC/BIKE DRIVER, TRAIN CONDUCTOR)		40 - Safety Equipment SHOULD-BELT-AND-LAP-BELT-USED		42 - Ejected NOT-EJECTED <input type="checkbox"/>		44 - Medical Transport <input type="checkbox"/>		38 - Injury Severity N - NO APPARENT INJURY	
38 - Injury Severity N - NO APPARENT INJURY		41 - Airbag DEPLOYED		92 - Pedestrian Location		92 - Pedestrian Action NOT-TRAPPED		119 - What Driver Was Doing GOING-STRAIGHT	
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 - 1st Statute No.		64 - 2nd Statute No.		64 - 3rd Statute No.		64 - 4th Statute No.		64 - 5th Statute No.	
64 - 3rd Statute No.		64 - 4th Statute No.		64 - 5th Statute No.		122 - Driver Factors NOT-APPLICABLE		88 - Driver or Pedestrian Cond APPEARED NORMAL	
88 - Driver or Pedestrian Cond APPEARED NORMAL		89 - Substance Presence NEITHER-ALCOHOL-NOR-DRUGS-PRESENT		90 - Alcohol Test TEST NOT GIVEN		91 - Drug Test TEST-NOT-GIVEN		90 - Alcohol Content	

ACCIDENT # 080610294

POLICE # DISTRICT 6

PK2007

PK2007

91 - Drugs Reported
124 - Highway Factors NOT-APPLICABLE

**Vehicle**

<b>VEHICLE 01</b>	21 - Unit Type <b>AUTOMOBILE</b>		Vehicle Type <b>PASSENGER-CAR</b>			22 - Total Occupants <b>2</b>	
	56 - License Plate Number <b>605KBW</b>		57 - Plate Type <b>AUT</b>	58 - State <b>WI</b>	59 - Exp Year <b>2008</b>	55 - Vehicle Identification Number <b>1G8ZJ557XRZ110693</b>	
	50 - Year <b>1994</b>	51 - Make <b>STRN</b>	52 - Model <b>SL2</b>	53 - Body Style <b>4D</b>	54 - Color <b>BLK</b>	100 - Skidmarks to Impact (Ft)	
	94 - Vehicle Damage <b>FRONT</b>						
	95 - Extent Of Damage <b>SEVERE</b>		96 <input type="checkbox"/> Vehicle Towed Due To Damage		97 - Vehicle Removed By <b>LEFT ON SCENE</b>		
	123 - Vehicle Factors <b>NOT-APPLICABLE</b>						

**Vehicle Owner**

<b>VEH OWNER 01</b>	45 <input checked="" type="checkbox"/> Vehicle Owner Same As Operator						
	46 - Vehicle Owner Last Name <b>GALLEGOS LOPEZ</b>			46 - First Name <b>GUILLERMO</b>		46 - Middle Initial	46 - Suffix
	46 - Company Name						
	47 - Address Street & Number <b>2560 S 15TH PL</b>				47 - PO Box		
	48 - City <b>MILWAUKEE</b>			48 - State <b>WI</b>	48 - Zip Code <b>53215</b>	49 - Telephone Number <b>(414) 313-7001 EXT.</b>	

**Insurance**

<b>INS 01</b>	63 - Liability Insurance Company <b>NONE</b>					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**

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

**Operator/Pedestrian**

Unit Status		81 - Most Harmful Event: Collision With <b>MOTOR VEHICLE IN TRANSPORT</b>		23 - Dir Of Travel <b>EAST</b>	24 - Speed Limit <b>35</b>	
36 - Operating as Classified <b>D CLASS</b>		37 - Endorsements		35 <input type="checkbox"/> Operating Commercial Motor Vehicle		
29 - Driver's License Number <b>H2601137975005</b>		30 - State <b>WI</b>	31 - Expiration Year <b>2014</b>	34 - On Duty Accident <b>POLICE</b>		
25 - Operator/Pedestrian Last Name <b>HAISER</b>		25 - First Name <b>CHRISTINA</b>		25 - Middle Initial <b>M</b>	25 - Suffix	
32 - Date Of Birth <b>07/10/1979</b>		33 - Sex <b>FEMALE</b>				



PK2007

<b>OPERATOR/PEDESTRIAN 02</b>	26 - Address Street & Number 11301 W. LINCOLN AVE				26 - PO Box	
	27 - City WEST ALLIS		27 - State WI	27 - Zip Code 53227		28 - Telephone Number (414) 302-8000 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 MAKING-LEFT-TURN		120 - Traffic Control NO-CONTROL		62 - No. of Citations Issued	
	64 - 1st Statute No.	64 - 2nd Statute No.	64 - 3rd Statute No.	64 - 4th Statute No.	64 - 5th Statute No.	
	122 - Driver Factors FAIL-TO-YIELD-RIGHT-OF-WAY					
	88 - Driver or Pedestrian Cond APPEARED NORMAL		89 - Substance Presence NEITHER-ALCOHOL-NOR-DRUGS-PRESENT			
	90 - Alcohol Test TEST NOT GIVEN		90 - Alcohol Content		91 - Drug Test TEST-NOT-GIVEN	
	91 - Drugs Reported					
	124 - Highway Factors NOT-APPLICABLE					

**Vehicle**

<b>VEHICLE 02</b>	21 - Unit Type AUTOMOBILE			Vehicle Type PASSENGER-CAR			22 - Total Occupants 1	
	56 - License Plate Number 1165		57 - Plate Type OFF	58 - State WI	59 - Exp Year	55 - Vehicle Identification Number 2G1WF55K949312869		
	50 - Year 2004	51 - Make CHEV	52 - Model IMPALA	53 - Body Style 4D		54 - Color WHI	100 - Skidmarks to Impact (Ft)	
	94 - Vehicle Damage MIDDLE PASSENGER SIDE							
	95 - Extent Of Damage SEVERE		96 <input checked="" type="checkbox"/> Vehicle Towed Due To Damage			97 - Vehicle Removed By CITY OF WEST ALLIS		
	123 - Vehicle Factors NOT-APPLICABLE							

**Vehicle Owner**

<b>VEH OWNER 02</b>	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 CITY OF WEST ALLIS					
	47 - Address Street & Number 7525 W GREENFIELD			47 - PO Box		
	48 - City WEST ALLIS		48 - State WI	48 - Zip Code 53214		49 - Telephone Number (414) 302-8000 EXT.

**Insurance**

PK2007

<b>INS 02</b>	63 - Liability Insurance Company <b>GOVERNMENT</b>		60 <input type="checkbox"/> Policy Holder Same As Owner
	61 - Policy Holder Last Name	61 - Policy Holder First Name	
	61 - Policy Holder Company		

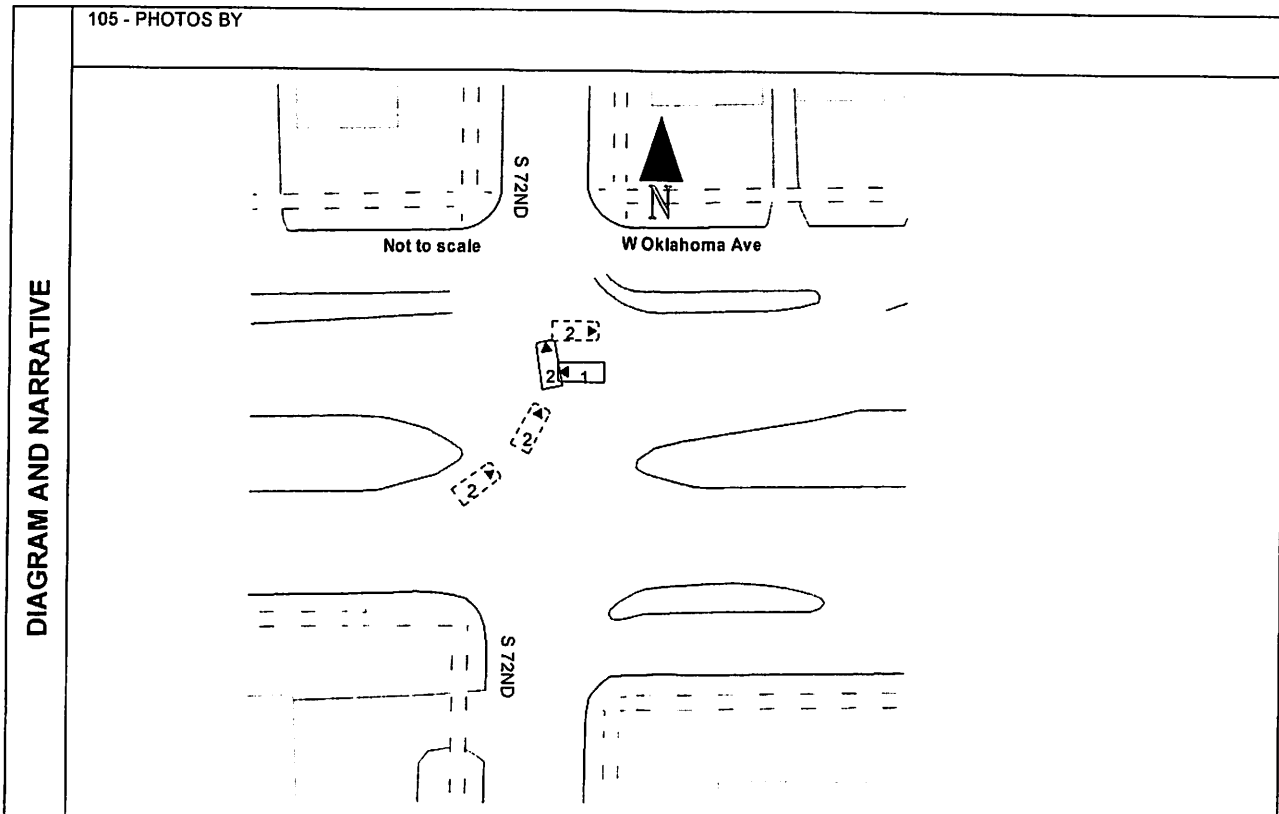
**School Bus**

<b>BUS 02</b>	Bus Travelling to/from <input type="radio"/> To <input type="radio"/> From	School Name	Body Make	Seating Capacity
	School District Contracted With			

**Occupant**

<b>OCCUPANT 01</b>	<input type="checkbox"/> Address Same As Operator				
	65 - Unit No <b>01</b>	66 - Occupant Last Name <b>BARRON</b>	66 - First Name <b>MARIBEL</b>	66 - Middle Initial	66 - Suffix
	68 - Address Street & Number <b>2560 S 15TH PL</b>		68 - PO Box		
	68 - City <b>MILWAUKEE</b>		68 - State <b>WI</b>	68 - Zip Code <b>53215</b>	
	67 - Date of Birth <b>11/19/1985</b>		69 - Sex <b>FEMALE</b>		
	71 - Seat Position <b>FRONT-SEAT-RIGHT-SIDE-(TRAIN ENGINEER)</b>			72 - Safety Equipment <b>SHOULDER-BELT-AND-LAP-BELT-USED</b>	
	70 - Injury Severity <b>C - POSSIBLE INJURY</b>	73 - Airbag <b>NON-DEPLOYED</b>	75 - Ejected <b>NOT-EJECTED</b>	77 <input checked="" type="checkbox"/> Medical Transport	
	76 - Trapped/Extricated <b>NOT-TRAPPED</b>	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

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.

**Officer Information**

<b>OFFICER INFORMATION</b>	125 - Officer Last Name <b>KROHN</b>		125 - First Name <b>MICHAEL</b>		125 - Middle Initial <b>C</b>		131 - Officer ID <b>17797</b>	
	129 - Law Enforcement Agency No. <b>006</b>		130 - Law Enforcement Agency Name <b>MILWAUKEE POLICE DEPARTMENT</b>					
	126 - Law Enforcement Agency Address Street & Number <b>749 WEST STATE STREET</b>							
	127 - City <b>MILWAUKEE</b>		127 - State <b>WI</b>		127 - Zip Code <b>53201</b>		128 - Telephone Number <b>(414) 933-4444 EXT.</b>	
	132 - Date Notified <b>03/01/2008</b>		133 - Time Notified (Military Time) <b>0454</b>		134 - Time Arrived (Military Time) <b>0454</b>		135 - Date Of Report <b>03/01/2008</b>	
	Agency Accident Number <b>080610294</b>		Police Number <b>DISTRICT 6</b>		19 - Special Study			
	18 - Agency Space							

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RECEIVED

MAR 28 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. 15<sup>th</sup> 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 72<sup>nd</sup> 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 27<sup>th</sup> day of March 2008

WINKLER LAW FIRM, S.C.,

By:

*Scott R. Winkler*  
 \_\_\_\_\_  
 Scott R. Winkler, Attorney  
 State Bar No 1013619  
 Date/Time 5/28/08  
 Place of Service PIE  
 Manner of Service Personal / Superior  
 Served Upon 224p

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



9H0288G

PK2007

<input checked="" type="checkbox"/> Reportable Accident		<input type="checkbox"/> On Emergency		<input type="checkbox"/> Amended		DOT Document Number 9H0288G		Document Override Number	
Agency Accident Number 080610294		Police Number DISTRICT 6		5 - Time of Accident (Military Time) 0454		6 - Total Units 02		7 - Total Injured 01	
4 - Accident Date 03/01/2008		3 - Municipality MILWAUKEE - 40		11 - Accident Location INTERSECTION		14 - On Street Name 72ND ST S		15 - Hwy. Dir FWM/	
16 - From/At Street Name OKLAHOMA AVE W		17 - Structure Type		17 - Structure Number		12 - Latitude		13 - Longitude	
80 - First Harmful Event MOTOR VEHICLE IN TRANSPORT		93 - Manner of Collision ANGLE		112 - Access Control NO CONTROL		113 - Road Curvature STRAIGHT		113 - Road Terrain LEVEL/FLAT	
115 - Traffic Way DIVIDED-HIGHWAY-MEDIAN-STRIP-WITHOUT-TRAFFIC-BARRIER		117 - Relation To Roadway ON-ROADWAY		114 - Light Condition DARK-LIGHTED		116 - Road Surface Condition DRY		118 - Weather CLOUDY	
9 - Hit and Run		9 - Government Property		9 - Fire		9 - Photos Taken		9 - Trailer or Towed	
9 - Truck, Bus, or Hazardous Materials		9 - Load Spillage		9 - Construction Zone		9 - Names Exchanged		101 - Supplemental Reports	
101 - Witness Statements		103 - Measurements Taken		79 - E M S Number CURTIS 351		Operator/Pedestrian			

GENERAL INFORMATION

ACCIDENT # 080610294

POLICE # DISTRICT 6

Unit Status		81 - Most Harmful Event: Collision With		23 - Dir Of Travel WEST		24 - Speed Limit 35	
36 - Operating as Classified D CLASS		37 - Endorsements		35			
29 - Driver's License Number G4222808306105		30 - State WI		31 - Expiration Year 2014		34 - On Duty Accident	
25 - Operator/Pedestrian Last Name GALLEGOS LOPEZ		25 - First Name GUILERMO		25 - Middle Initial		25 - Suffix	
32 - Date Of Birth 02/21/1983		33 - Sex MALE		26 - Address Street & Number 2560 S 15TH PL		26 - PO Box	
27 - City MILWAUKEE		27 - State WI		27 - Zip Code 53215		28 - Telephone Number (414) 313-7001 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 DEPLOYED	
43 - Trapped/Entrapped NOT-TRAPPED		92 - Pedestrian Location		92 - Pedestrian Action NOT-EJECTED		44 - Medical Transport <input type="checkbox"/>	
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		88 - Driver or Pedestrian Cond APPEARED NORMAL		89 - Substance Presence NEITHER-ALCOHOL-NOR-DRUGS-PRESENT		90 - Alcohol Test TEST NOT GIVEN	
91 - Drug Test TEST-NOT-GIVEN							

OPERATOR/PEDESTRIAN 01

91 - Drugs Reported
124 - Highway Factors NOT-APPLICABLE

**Vehicle**

VEHICLE 01	21 - Unit Type AUTOMOBILE		Vehicle Type PASSENGER-CAR			22 - Total Occupants 2	
	56 - License Plate Number 605KBW		57 - Plate Type AUT	58 - State WI	59 - Exp Year 2008	55 - Vehicle Identification Number 1G8ZJ557XRZ110693	
	50 - Year 1994	51 - Make STRN	52 - Model SL2	53 - Body Style 4D	54 - Color BLK	100 - Skidmarks to Impact (F)	
	94 - Vehicle Damage FRONT						
	95 - Extent Of Damage SEVERE		96 <input type="checkbox"/> Vehicle Towed Due To Damage		97 - Vehicle Removed By LEFT ON SCENE		
	123 - Vehicle Factors NOT-APPLICABLE						

**Vehicle Owner**

VEH OWNER 01	45 <input checked="" type="checkbox"/> Vehicle Owner Same As Operator					
	46 - Vehicle Owner Last Name GALLEGOS LOPEZ		46 - First Name GUILLERMO		46 - Middle Initial	46 - Suffix
	46 - Company Name					
	47 - Address Street & Number 2560 S 15TH PL			47 - PO Box		
	48 - City MILWAUKEE		48 - State WI	48 - Zip Code 53215		49 - Telephone Number (414) 313-7001 EXT.

**Insurance**

INS 01	63 - Liability Insurance Company NONE		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			

**Operator/Pedestrian**

Unit Status		81 - Most Harmful Event: Collision With MOTOR VEHICLE IN TRANSPORT		23 - Dir Of Travel EAST	24 - Speed Limit 35
36 - Operating as Classified D CLASS		37 - Endorsements		35 <input type="checkbox"/> Operating Commercial Motor Vehicle	
29 - Driver's License Number H2601137975005		30 - State WI	31 - Expiration Year 2014	34 - On Duty Accident POLICE	
25 - Operator/Pedestrian Last Name HAISER		25 - First Name CHRISTINA		25 - Middle Initial M	25 - Suffix
32 - Date Of Birth 07/10/1979		33 - Sex FEMALE			

PK2007

OPERATOR/PEDESTRIAN 02	26 - Address Street & Number 11301 W. LINCOLN AVE				26 - PO Box	
	27 - City WEST ALLIS		27 - State WI	27 - Zip Code 53227	28 - Telephone Number (414) 302-8000 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 MAKING-LEFT-TURN		120 - Traffic Control NO-CONTROL		62 - No. of Citations Issued	
	64 - 1st Statute No.	64 - 2nd Statute No.	64 - 3rd Statute No.	64 - 4th Statute No.	64 - 5th Statute No.	
	122 - Driver Factors FAIL-TO-YIELD-RIGHT-OF-WAY					
	88 - Driver or Pedestrian Cond APPEARED NORMAL		89 - Substance Presence NEITHER-ALCOHOL-NOR-DRUGS-PRESENT			
	90 - Alcohol Test TEST NOT GIVEN		90 - Alcohol Content		91 - Drug Test TEST-NOT-GIVEN	
	91 - Drugs Reported					
	124 - Highway Factors NOT-APPLICABLE					

Vehicle

VEHICLE 02	21 - Unit Type AUTOMOBILE		Vehicle Type PASSENGER-CAR			22 - Total Occupants 1
	56 - License Plate Number 1165		57 - Plate Type OFF	58 - State WI	59 - Exp Year	55 - Vehicle Identification Number 2G1WF55K949312869
	50 - Year 2004	51 - Make CHEV	52 - Model IMPALA	53 - Body Style 4D	54 - Color WHI	100 - Skidmarks to Impact (Ft)
	94 - Vehicle Damage MIDDLE PASSENGER SIDE					
	95 - Extent Of Damage SEVERE		96 <input checked="" type="checkbox"/> Vehicle Towed Due To Damage		97 - Vehicle Removed By CITY OF WEST ALLIS	
	123 - Vehicle Factors NOT-APPLICABLE					

Vehicle Owner

VEH OWNER 02	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 CITY OF WEST ALLIS				
	47 - Address Street & Number 7525 W GREENFIELD			47 - PO Box	
	48 - City WEST ALLIS		48 - State WI	48 - Zip Code 53214	49 - Telephone Number (414) 302-8000 EXT.

Insurance

PK2007

INS 02	63 - Liability Insurance Company <b>GOVERNMENT</b>		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 02	Bus Travelling to/from <input type="radio"/> To <input type="radio"/> From	School Name	Body Make	Seating Capacity
	School District Contracted With			

**Occupant**

OCCUPANT 01	<input type="checkbox"/> Address Same As Operator				
	65 - Unit No 01	66 - Occupant Last Name <b>BARRON</b>	66 - First Name <b>MARIBEL</b>	66 - Middle Initial	66 - Suffix
	68 - Address Street & Number <b>2560 S 15TH PL</b>		68 - PO Box		
	68 - City <b>MILWAUKEE</b>		68 - State <b>WI</b>	68 - Zip Code <b>53215</b>	
	67 - Date of Birth <b>11/19/1985</b>		69 - Sex <b>FEMALE</b>		
	71 - Seat Position <b>FRONT-SEAT-RIGHT-SIDE-(TRAIN ENGINEER)</b>			72 - Safety Equipment <b>SHOULDER-BELT-AND-LAP-BELT-USED</b>	
	70 - Injury Severity <b>C - POSSIBLE INJURY</b>	73 - Airbag <b>NON-DEPLOYED</b>	75 - Ejected <b>NOT-EJECTED</b>	77 <input checked="" type="checkbox"/> Medical Transport	
	76 - Trapped/Extricated <b>NOT-TRAPPED</b>		78 - Agency Space		

**Diagram and Narrative**

DIAGRAM AND NARRATIVE	105 - PHOTOS BY
	<p>The diagram illustrates the intersection of S 72ND and W Oklahoma Ave. Unit #1 is shown on W Oklahoma Ave, and Unit #2 is shown on S 72ND. A snow bank is depicted near the intersection. Photos 1, 2, 3, and 4 are marked on the diagram, showing the positions of the units and the snow bank.</p>
	<p>UNIT #1 WAS TRAVELING WB 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.</p> <p>SUPPLEMENTAL REPORT</p>



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.

**Officer Information**

<b>OFFICER INFORMATION</b>	125 - Officer Last Name KROHN		125 - First Name MICHAEL	125 - Middle Initial C	131 - Officer ID 17797	
	129 - Law Enforcement Agency No. 006		130 - Law Enforcement Agency Name MILWAUKEE POLICE DEPARTMENT			
	126 - Law Enforcement Agency Address Street & Number 749 WEST STATE STREET					
	127 - City MILWAUKEE		127 - State WI	127 - Zip Code 53201	128 - Telephone Number (414) 933-4444 EXT.	
	132 - Date Notified 03/01/2008		133 - Time Notified (Military Time) 0454	134 - Time Arrived (Military Time) 0454		135 - Date Of Report 03/01/2008
	Agency Accident Number 080610294		Police Number DISTRICT 6		19 - Special Study	
	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,

  
Jeffrey J. Warchol  
Assistant City Attorney

JJW:da  
Enclosures

cc: Thomas E. Mann, CVMIC