

SERVICE AND PROCESSING OF CLAIMS

Plaintiff or Claimant: Hypy Abraham / Duke Swan
Notice of Claim

Date: 6-10-19

In-person

Process Server

Claimant

Other _____

By mail

By email

By fax

Received by: Ann Marie

➤ Hand deliver to: Ann Marie or Janel

➤ Forwarded to Attorney's Office by Ann Marie or Janel

➤ Response from Attorney's Office

➤ Common Council Agenda: Yes No

Hupy and Abraham s.c.

personal injury lawyers

111 EAST KILBOURN AVENUE, SUITE 1100
MILWAUKEE, WISCONSIN 53202
Tel 414.223.4800
Fax 414.271.3374

RECEIVED

JUN 10 2019

CITY OF WEST ALLIS
CITY CLERK

June 4, 2019

VIA SOUTHEAST WISCONSIN PROCESS

PROCESS SERVER
TIME: 11:10 AM DATE: 6/10/19
() PERSONAL () SUBSTITUTE
() POSTED () CORPORATE

WISCONSIN

Appleton Office
Tel 920.882.8382
Fax 920.750.5397

Green Bay Office
Tel 920.593.5050
Fax 920.593.5055

Madison Office
Tel 608.277.7777
Fax 608.274.1848

Wausau Office
Tel 715.298.4400
Fax 715.298.4405

ILLINOIS

Bloomington Office
Tel 309.827.4800
Fax 309.827.6525

Gurnee Office
Tel 847.625.5500
Fax 847.625.6318

Rockford Office
Tel 815.877.3900
Fax 815.282.8174

IOWA

Cedar Rapids Office
Tel 319.731.9009
Fax 515.777.3399

West Des Moines Office
Tel 515.984.0091
Fax 515.777.3399

Quad Cities Office
Tel 563.275.6892
Fax 563.359.0592

Steven A. Braatz, Jr.
West Allis City Clerk
7525 West Greenfield Avenue
Room 108
West Allis, Wi 53214

RE: Duke A. Swan
Date of Accident: June 16, 2018

Dear Mr. Braatz:

Enclosed please find the original and four copies of the Notice of Claim along with a set of medical records in the above referenced matter. Please file-stamp one copy and return it to me in the envelope provided.

Thank you for your cooperation in this matter. If you have any questions, please feel free to contact me.

Very truly yours,

Hupy and Abraham, S.C.

Dawn M. Rowe

Dawn M. Rowe
Litigation Paralegal

DMR/
Enclosure

*§† MICHAEL F. HUPY
*¥Δ† JASON F. ABRAHAM
*¥† CHAD A. KREBLIN
*¥«BRANDON D. DERRY
*¥† TODD R. KORB

*¥§ THOMAS W. KYLE
*§† TIMOTHY W. SCHELWAT
* EVAN N. CLADITIS
* JAMES R. SHILOBRIT
* THOMAS A. PERLBERG
§ VITO J. MANICIOTO
* SHAWN P. BROCK
* DOUGLAS R. ROSS
*§ ROBERT J. DOMOL
§Δ JAMES K. THEISEN
* TERESE M. HALFMANN
§ DAVID N. METNICK
§¥ JOHN D. SIMMONS
¥ JENNA L. GREEN
*§ JAMES D. CARLSON
* RYAN J. TRUESDALE
¥ BENJAMIN K. LYNCH
¥- THOMAS L. HILLERS
* ZACHARY R. ZELLNER
-> RAMZY T. HALABY
*¥ JEFFREY P. SCHULTZ

* licensed in Wisconsin
§ licensed in Illinois
¥ licensed in Iowa
« licensed in Minnesota
Δ licensed in Missouri
- licensed in Indiana
> licensed in Arkansas
† Certified Civil Trial Specialist
by the National Board
of Trial Advocacy



More than \$1 BILLION collected for thousands of satisfied clients.
Committed to the community for more than 50 Years.

hupy.com

TELL THEM YOU MEAN BUSINESS.™

NOTICE OF CLAIM

TO: Steven A. Braatz, Jr.
West Allis City Clerk
7525 West Greenfield Avenue, Room 108
West Allis, Wisconsin 53214,

George L. Christenson
Milwaukee County Clerk
County of Milwaukee
901 North 9th Street, Room 105
Milwaukee, Wisconsin 53233

Patrick Mitchell
West Allis Chief of Police
West Allis Police Department
11301 West Lincoln Avenue
West Allis, Wisconsin 53227,

Officer Steven Martin
c/o West Allis Police Department
11301 West Lincoln Avenue
West Allis, Wisconsin 53227,

Officer Peter Borree
3859 South Logan Avenue
Milwaukee, Wisconsin 53207,

RE: Duke A. Swan
1962 South 59th Street
West Allis, Wisconsin 53219,

Date of Accident: June 16, 2018
Location: 1962 South 59th Street
West Allis, Wisconsin 53219

PLEASE TAKE NOTICE, pursuant to Wis. Stat. § 893.80, that on or about September 28, 2018, a Notice of Injury was filed on behalf of the Claimant, Duke A. Swan, for injuries he sustained while he was at his home, located at or near 1962 South 59th Street, in the City of West Allis, County of Milwaukee, Wisconsin; that at the same time and place, West Allis Police Officers, Steven Martin and Peter Borree, intentionally, recklessly, and/or negligently attacked

and/or used excessive force on Duke A. Swan during his arrest and/or while he was in custody, thereby causing serious injuries to Duke A. Swan.

Liability for Duke A. Swan's injuries and damages is attributed to the City of West Allis, the County of Milwaukee, and/or the West Allis Police Department pursuant to the theory of *Respondent Superior*, in that they are liable for the acts of their aforementioned employees, servants, agents, and/or volunteers, in this case, Officers Steven Martin and Peter Borree, whom failed to exercise ordinary care while in the course and scope of employment.

PLEASE TAKE FURTHER NOTICE that as a proximate result of the negligence described in the Notice of Injury, Duke A. Swan, sustained injuries causing him to incur medical bills and expenses as follows:

(a)	City of West Allis Fire Department	\$ 857.04
(b)	Aurora West Allis Memorial	\$ 9,380.59
(c)	Aurora St. Luke's Medical Center	\$ 30,006.36
(d)	ER Med Sc	\$ 1,527.00
(e)	Aurora Medical Group Physicians	\$ 9,005.00
(f)	Great Lakes Pathologists	\$ 678.00
(g)	Aurora Psychiatric Hospital	\$ 23,109.00

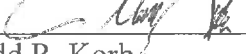
Total: \$ 74,562.99

As a proximate result of the negligence described in the Notice of Injury, Duke A. Swan, suffered conscious pain and suffering in addition to the special damages outlined above, all to his damage, in the amount of \$500,000.

WHEREFORE, Duke A. Swan makes claim upon the West Allis Police Department and/or the City of West Allis for damages in the amount of \$50,000 for the settlement of any and all claims of Duke A. Swan that are not actionable under federal law. Such claims that are actionable under federal law include those causes of action pursuant to 42 U.S.C. § 1983 and remedied through 42 U.S.C. § 1988. This notice of claim and payment of the aforementioned \$50,000 in no way waives the rights of Duke A. Swan to pursue his claims actionable under federal law, and payment of the aforementioned \$50,000 will only resolve any state law claims of Duke A. Swan against the West Allis Police Department and/or the City of West Allis. Such state law claims specifically include a negligence cause of action but do not include any punitive damage claims. This request is exclusive of Duke A. Swan's ability to seek relief for violations of his rights under the United States Constitution and its Amendments actionable under 42 U.S.C. § 1983, potential attorney's fees recoverable under 42 U.S.C. § 1988, punitive damages, and his ability to seek indemnification and/or contribution from the West Allis Police Department and/or the City of West Allis to indemnify Officer Steven Martin and Officer Peter Borree for any such violations of Duke A. Swan's rights under the United States Constitution and its Amendments actionable under 42 U.S.C. § 1983, and potential attorney's fees recoverable under 42 U.S.C. § 1988.

DATED at Milwaukee, Wisconsin this 3rd day of June, 2019.

HUPY AND ABRAHAM, S.C.
Attorneys for Claimant,

By: 
Todd R. Korb
State Bar Number: 1026950

Post Office Address:
111 East Kilbourn Avenue
Suite 1100
Milwaukee, Wisconsin 53202
(414) 223-4800

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Liability for Duke A. Swan's injuries and damages is attributed to the City of West Allis, the County of Milwaukee, and/or the West Allis Police Department pursuant to the theory of *Respondeat Superior*, in that they are liable for the acts of their aforementioned employees, servants, agents, and/or volunteers, in this case, Officers Steven Martin and Peter Borree, whom failed to exercise ordinary care while in the course and scope of employment.

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DATED at Milwaukee, Wisconsin this 3rd day of June, 2019.

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Attorneys for Claimant,

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Todd R. Korb

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