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23.



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
2008-0439	Claim	Claim Report
Janet A. Lomonte, 3141 S. 77 Street, Apt. 312, communication regarding personal injury allegedly sustained at an alley between South 58 and 59 Streets north of West Lincoln Avenue on May 25, 2008.		
Introduced: 6/17/2008		Controlling Body: Administration & Finance Committee

COMMITTEE RECOMMENDATION

POF

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
SEP 02 2008			Barczak				
			Czaplewski				
			Kopplin	✓			
			Lajsic	✓			
		X	Narlock	✓			
			Reinke	✓			
			Roadt				
			Sengstock				
			Vitale	X	✓		
		Weigel					
		TOTAL		5	0		

SIGNATURE OF COMMITTEE MEMBER

Kurt Kopplin

Chair Vice-Chair Member

PLACE ON FILE

COMMON COUNCIL ACTION

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
SEP 02 2008		✓	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

August 25, 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:

Janet Lomonte- Amount \$200.00

This is a claim for personal injuries to the claimant occurring from a trip and fall on a sidewalk adjacent to an alley on May 25th, 2008. The claimant, while walking, tripped as a result of a hole/depression in the walkway between South 58th and South 59th Streets in the City of West Allis. As a result of the fall, the claimant suffered bodily injuries consisting of a sprained ankle, cuts, bruising and swelling of her right knee. The claimant did have her injuries checked out by a physician at an Urgent Care facility immediately after the fall. On June 9th, 2008, the claimant filed a claim against the City asking for her out-of-pocket expenses for this incident in the amount of \$200.00.

Our investigation of this claim indicated that there was a hole in the walkway as stated by the claimant, which was repaired by the Public Works Department the day after the claimant called to report her trip and fall incident. The claimant consulted a lawyer who advised her to go after much more than simply her out-of-pocket expenses; however, the claimant was content to be reimbursed the \$200.00 she spent in obtaining ice packs, bandages, various medications and a brace for her left ankle. The claimant was pretty much immobile for a two-week period following the incident as her injuries healed. Regardless of how a legal battle would have turned out between the claimant and the City, the City would spend much more than \$200.00 just in proffering a defense to the claim.

Based upon the above, the City Attorney's Office paid the claimant the amount of \$200.00 and in return, obtained a full Release of All Claims signed by the claimant. 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

RELEASE OF ALL CLAIMS

FOR AND IN CONSIDERATION of the payment to JANET LOMONTE at this time of the sum of Two Hundred and 00/100 Dollars (\$200.00), 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 May 25th, 2008, in an alley between South 58th Street and South 59th Street, West Allis, Wisconsin, when Ms. Lomonte, while walking through the alley, fell in a hole in the blacktop of the alley resulting in bodily injuries consisting of a sprained left ankle and cuts, bruising, swelling and sprained right knee. 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.

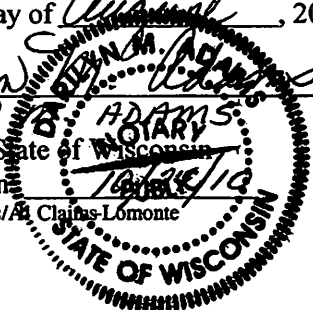
Signed and sealed this 15 day of August, 2008.



Janet Lomonte

Subscribed and sworn to before me
this 15th day of August, 2008.


(DARLYN B. ADAMS)
Notary Public, State of Wisconsin
My Commission: 7/28/10

L:\jeff\claims\releases\All Claims-Lomonte





WEST ALLIS



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

June 11, 2008

Ms. Janet Lomonte
3141 S. 77 St.
Apt. 312
Milwaukee, WI 53219

Dear Ms. Lomonte:

This letter acknowledges receipt of your communication regarding injuries allegedly sustained at an alley located between South 58 and 59 Streets north of West Lincoln Avenue on May 25, 2008.

The original document will be submitted to the Common Council at its meeting of June 17, 2008.

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

/jl

cc: City Attorney

RECEIVED

JUN 10 2008

WEST ALLIS
CITY ATTORNEY

RECEIVED

JUN 10 2008

CITY OF WEST ALLIS
CLERK/TREASURER

To the West Allis City Attorney,

On Memorial Day Weekend (Sunday - May 25th)
I fell in the alley between 59th + 58th
Streets just North of Lincoln Ave.

I fell on a hole in the blacktop.
I phoned the street workers and they
fixed it right after I called, - but it
shouldn't have taken someone falling
to get it repaired.

I was taken to Urgent Care, where
they found I had a very bad sprain
on my left ankle - cuts, bruising,
swelling and sprain on my right
knee (which I had a total knee
replacement on 2 years prior).

I was given ice packet, elastic
bandage and a brace for my left
ankle. I was cleaned from all the
blood and cuts on my right knee -
given another ice pack, elastic
bandages bandages and antiseptic
ointment and brace on it. I was
also bruised up my entire body. I
was given an Rx of Vicodin pain killers,
and they were going to give me crutches

but I already had a walker at home from my knee replacement.

I had to see my Orthopaedic Dr. and followed up with him, because of all this I've been pretty much incapacitated for the last 2 wks.

We do have pictures of the area in the alley and also of my injuries. I've talked to my lawyer - but I really don't want to sue anyone.

I haven't received any bills as yet - so I'm including copies of the urgent care visit.

I'm not asking for much - maybe \$200 for the expenses I've incurred out of my own pocket.

You may contact me at 546 6612, if you have any questions.

I want to thank you in advance for taking care of this.

My name is Janet Lomonte, address 3141 S. 77th St. Apt. 312 Milwaukee, WI 53219.

Sincerely,
Janet A. Lomonte

You must take any prescription(s) to the pharmacy of your choice to be filled. Take all medications as directed. Call your pharmacist or us if you have any questions regarding your medications.

If you were prescribed sedatives or pain medications they may make you drowsy. Do not drink alcohol, drive, or operate machinery while you are taking these medications.

If you were prescribed an over the counter medication. It is important to thoroughly read the information contained in the package before taking the medication.

We have examined and treated you today on an emergency/urgent care/outpatient basis only. If symptoms or medical problem(s) fail to improve, call us at 414-259-7361, see your doctor, or return here.

Provisional Diagnosis (A) ankle sprain / (B) knee contusion / abrasion Physician who cared for you Harvieptz

You must arrange for an exam with your physician in 2 days.

You should arrange for an exam with your physician if your condition does not improve in 2 days.

Physician Cummings - ortho at West Allis Telephone _____

To find a doctor, call our Physician Referral Service 877-226-8362

Additional Instructions Ice, Elevate
x 2 days then alternate with warm compress

You had _____ sutures/staples. They must be removed in _____ days.

Work/School Release:

May return to work/school immediately with no limitations.

Off work/school today, may return next scheduled shift/day.

Off work/school for _____ days. Recheck by family/ company doctor prior to return is recommended.

____ May return to work/school with the following limitations: _____

Other Instructions:

Instruction Sheet:

If you received x-rays, they do not always show injury or disease. Fractures (breaks in the bones) are not always revealed on the initial x-rays but may be revealed on subsequent x-rays. **Your x-ray has been read on a preliminary basis.** Final reading will be made by the Radiologist. You or your referral physician will be notified of any additional findings through the Urgent Care Department.

If you received an EKG it has been read on a preliminary basis by the physician on duty. A final reading will be made. You or your referral physician will be contacted if additional treatment is required.

If cultures were done today results will not be available for 72 hours. We will call you if the culture is positive and additional treatment is required.

I have received discharge instructions and understand that I have received emergency/urgent care only. I am to call or see my family physician for further care.

I also understand my primary care physician may receive a copy of my UC record.

Patient signature: Janet G. Lomonte

Time: 1940 Date: 5-25-08 Staff Initials: g



201 N. Mayfair Road
Wauwatosa, WI 53226
414-259-7361

Urgent Care
Discharge Instructions

66617 10/2007 R10

PATIENT

LOMONTE JANET ANN

DOB 08/04/1946 61 Y SEX: F MR: 861546

POWELL GUY R

ACCT#
72139070



If you were prescribed your medications, these medications.

If you were prescribed sedatives or pain medications they may make you drowsy. Do not drink alcohol, drive, or operate machinery while you are taking these medications.

We have examined and treated you today on an emergency/urgent care/outpatient basis only. If symptoms or medical problem(s) fail to improve, call us at 414-259-7361, see your doctor, or return here.

Provisional Diagnosis: Backe sprain / B knee laceration / sprain
You must arrange for an exam with your physician in 2 days.
You should arrange for an exam with your physician if your condition does not improve in 2 days.

Physician Emmings - ortho at West Atlas
To find a doctor, call our Physician Referral Service 877-226-8362

Additional Instructions Feel elevated

You had 2 days then alternate sutures/staples. They must be removed in 2 days.

- May return to work/school immediately with no limitations.
- Off work/school today, may return next scheduled shift/day.
- Off work/school for 2 days. Recheck by family/ company doctor prior to return is recommended.
- May return to work/school with the following limitations: _____

I have received discharge instructions and understand that I have received emergency/urgent care only. I am to call or see my family physician for further care.

I also understand my primary care physician may receive a copy of my UC record.



Wheaton Franciscan Healthcare
Wauwatosa
201 N. Mayfair Road
Wauwatosa, WI 53226
414-259-7361

Patient signature: Janet G. Lomonte

Urgent Care
Discharge Instructions

66617 10/2007 R10

PATIENT

Other Instructions: _____
with warm compress

If you received an EKG it has been read on a preliminary basis by the physician on duty. A final reading will be made. You or your referral physician will be contacted if additional treatment is required.

Time: 1940 Date: 5-25-08
Staff Initials: J

LOMONTE JANET ANN
DOB: 08/04/1946 61 Y SEX: F MR: 861546
POWELL GUY R
RGT# 72139070

PRESCRIPTION & CERTIFICATE OF MEDICAL NECESSITY

Product Questions: 1-866-476-2001

Billing Questions: 1-262-207-1591 21362

LOMONTE JANET ANN
 DOB 09/04/1946 61 Y SEX F MR 961546
POWELL GUY R
 HCCI# 72139070

PHYSICIAN CERTIFICATION

This appliance(s) is (are) to be used on an indefinite basis, and is (are) medically necessary.

PHYSICIAN

1 SIGNATURE _____

Prescription date 5-25-08

2 ANATOMY

3 DIAGNOSIS

EQUIPMENT

4 TREATING PHYSICIAN

<input type="checkbox"/> Head <input type="checkbox"/> Face <input type="checkbox"/> Neck <p style="text-align: center;">U.E.</p> <input type="checkbox"/> Left <input type="checkbox"/> Right <input type="checkbox"/> Bilateral <input type="checkbox"/> Clavicle <input type="checkbox"/> Shoulder <input type="checkbox"/> Arm <input type="checkbox"/> Elbow <input type="checkbox"/> Forearm <input type="checkbox"/> Wrist <input type="checkbox"/> Hand <input type="checkbox"/> Finger (# <u> </u>) <input type="checkbox"/> Thumb <input type="checkbox"/> Back <input type="checkbox"/> Chest <input type="checkbox"/> Abdomen <p style="text-align: center;">L.E.</p> <input checked="" type="checkbox"/> Left <input checked="" type="checkbox"/> Right <input type="checkbox"/> Bilateral <input type="checkbox"/> Hip <input type="checkbox"/> Thigh <input checked="" type="checkbox"/> Knee <input checked="" type="checkbox"/> Lower leg <input checked="" type="checkbox"/> Ankle <input type="checkbox"/> Foot <input type="checkbox"/> Toe (# <u> </u>)	<input type="checkbox"/> Fracture <input type="checkbox"/> Avulsion <input type="checkbox"/> Dislocation <input checked="" type="checkbox"/> Sprain <input checked="" type="checkbox"/> Rupture <input type="checkbox"/> Strain <input type="checkbox"/> Laceration <input type="checkbox"/> Abrasion <input type="checkbox"/> Puncture <input checked="" type="checkbox"/> Contusion <input type="checkbox"/> Effusion <input type="checkbox"/> Infection <input type="checkbox"/> Blunt trauma, no signs <input type="checkbox"/> Syncope <input type="checkbox"/> Osteoarthritis <input type="checkbox"/> Cellulitis <input type="checkbox"/> Tendonitis <input type="checkbox"/> Fasciitis <input type="checkbox"/> Idiopathic pain <input type="checkbox"/> Other: _____	<input type="checkbox"/> Soft cervical collar (L0120) <input type="checkbox"/> Philadelphia collar (L0172) <input type="checkbox"/> "Stiffneck" collar (L0150) <input type="checkbox"/> Clavicle strap (L3650) <input type="checkbox"/> Shoulder immobilizer (L3660) <input type="checkbox"/> Arm sling (A4565) <input type="checkbox"/> Tennis elbow splint (L3701) <input type="checkbox"/> Colles splint (L3914) <input type="checkbox"/> Wrist splint (L3908) <input type="checkbox"/> Mason-Allen splint (L3936) <input type="checkbox"/> Metacarpal splint (L3918) <input type="checkbox"/> Thumb spica (L3807) <input checked="" type="checkbox"/> Lumbosacral support (L0500) <input checked="" type="checkbox"/> Knee immobilizer (L1830) <input type="checkbox"/> Elastic knee sleeve (L1825) <input type="checkbox"/> Walker AFO (L2112 / L4386) <input checked="" type="checkbox"/> Ankle sprain kit (L4350) <input type="checkbox"/> Post-op shoe (L3260) <input type="checkbox"/> Underarm crutches (E0114) <input type="checkbox"/> Folding walker (E0135) <input type="checkbox"/> Bariatric walker (E0148) Patient's weight _____ <input type="checkbox"/> Walker wheels <input type="checkbox"/> Single-point cane (E0100) <input type="checkbox"/> Quad cane (E0105) <input type="checkbox"/> Other: _____	<input type="checkbox"/> Albert, John A., MD (H 11681) <input type="checkbox"/> Alvarez, Orlando E., MD (G 25824) <input type="checkbox"/> Griffay, Anthony M., MD (F 76493) <input type="checkbox"/> Hendley, Gail E., MD (B 53539) <input type="checkbox"/> LaCrosse, Larry E., MD (F 27132) <input type="checkbox"/> Lee, Joseph C., DO (H 62086) <input type="checkbox"/> Lindberg, James B., MD (H 26209) <input type="checkbox"/> Mitchell, Mark A., DO (E 97193) <input checked="" type="checkbox"/> Moran, Richard A., DO (F 77703) <input type="checkbox"/> Sullivan, Thomas E., MD (E 18594) <input type="checkbox"/> Van Roo, Jane E., MD (G 24557) <input type="checkbox"/> Hamel, Jennafer D., PA (pending) <input type="checkbox"/> Le, Tran G., PA (Q 21874) <input type="checkbox"/> Pacey, Deborah L., PA (R 94894) <input type="checkbox"/> Robinson, Joyce A., PA (S 76326) <input type="checkbox"/> Other: _____
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By signing this document you are acknowledging that you have read and agreed to the additional terms on the back of this document.

Beneficiary's Name _____ by _____ Representative's Name _____ Reason Beneficiary Cannot Sign _____

Representatives Address _____

Janet A. Lomonte
 Beneficiary (or Parent/Guardian/Agent) Signature

Date

5-25-08
 Relationship to Beneficiary (if applicable)

Technician Initials _____



OFFICE OF THE CITY ATTORNEY

Scott E. Post
City Attorney

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

August 26, 2008

Common Council
City of West Allis

RE: City Attorney's Report of Claims/Lawsuits

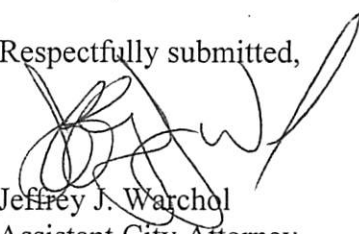
Dear Council Members:

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 claims/lawsuits have been paid and placed on file:

Janet Lomonte (\$200.00)
Henry Teetz III (\$249.45)

Respectfully submitted,



Jeffrey J. Warchol
Assistant City Attorney

JJW:da
Enclosures

cc: Thomas E. Mann, CVMIC