

## City of West Allis Matter Summary

7525 W. Greenfield Ave. West Allis, WI 53214

File Number	Title	Status
2008-0212	Claim	Claim Report
		mmunication on behalf of Mary Kay Cosmetics regarding ed at South 119 Street and West Oklahoma Avenue on
	<b>Introduced:</b> 4/14/2008	Controlling Body: Administration & Finance Committee

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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

July 16, 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 placed on file:

TrustSolutions, LLC/Mary Neustaedter (\$4,822.48)

CEI Services as Subrogees of GE Fleet Services/ Mary Kay Cosmetics/Sandra Hoeft (\$2,766.51)

The following claims/lawsuits have been denied:

Thomas Poppe (\$205.92) Walters Wrecking Inc. (\$4,085.70) Tracy Laverdure (\$2,354.00)

Respectfully submitted

Assistant City Attorney

JJW:da Enclosures

cc: Thomas E. Mann, CVMIC





#### OFFICE OF THE CITY ATTORNEY

July 1, 2008

Scott E. Post City Attorney

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

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 placed on file:

# <u>CEI Services as Subrogees of GE Fleet Services/Mary Kay Cosmetics/Sandra Hoeft – Amount \$ 2,766.51</u>

This is a claim by the claimant's insurance company for property damage to the claimant's vehicle on February 10<sup>th</sup>, 2008, when it was struck by a City of West Allis snowplow at South 119<sup>th</sup> Street and West Oklahoma Avenue in the City of West Allis. While snowplowing the street, the operator of the plow backed up to clear snow next to the curb area and struck the vehicle owned by the claimant's insured while it was standing still causing damage to the front of said vehicle. The insurance company obtained an estimate for repairs, had the vehicle repaired and filed a claim against the City on April 3<sup>rd</sup>, 2008, including towing fees, as well as, the cost of a rental vehicle.

Our investigation into this claim indicated that although the operator of the snowplow had its emergency lights activated, he was still primarily negligent for not keeping a proper lookout while backing up his vehicle. The claimant's insured was standing still when hit and not attempting any kind of maneuver to get around the snowplow, etc. The claimant's insured still bears some negligence in this matter but not as much as the snowplow operator given the facts and circumstances of this specific case. Pursuant to settlement guidelines, the City Attorney's Office paid this claim in the amount stated above and obtained a Property Damage Only Release signed by the claimant.

Based upon the above, this claim should be placed on file.

Respectfully submitted,

Assistant City Attorney

JJW:da

696563

### PROPERTY DAMAGE ONLY RELEASE

KNOW ALL MEN BY THESE PRESENTS that CEI SERVICES AS SUBROGEES OF GE FLEET SERVICES, a proper and legal subrogee in this matter, on behalf of Sandra Hoeft, its insured, for and in consideration of Two Thousand Seven Hundred Sixty-six and 51/100 Dollars (\$2,766.51) 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 that certain accident on or about February 10th, 2008, at the intersection located at West Oklahoma Avenue and South 119th Street, West Allis, Wisconsin, when the City operator of a West Allis snowplow, while plowing the streets, backed up to clear snow and struck the vehicle behind it being driven by Ms. Hoeft, causing property damage to the front of Ms. Hoeft's vehicle.

We 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.

We 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.

We 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.

WE HAVE READ THE FOREGOING RELEASE AND FULLY UNDERSTAND IT. WE FURTHER UNDERSTAND THAT WE 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 \_\_\_\_\_ day of 2008.

SERVICES AS SUBROGEES OF

**GE FLEET SERVICES** 

Subrogated Party on Behalf of Sandra Hoeft

Subscribed and sworn to before me

2008.

Notary Public, State of

My Commission: **D** 

Phone: 215-364-8253 Fax: 215-953-4178



AUTO CLAIMS MANAGEMENT

## Claimant's 1st Report Automobile Loss

April 3, 2008

City od West Aliss

1st Report - Attn: Claims

RECEIVED

APR 0 3 2008

CITY OF WEST ALLIS CLERK/TREASURER

RE:

Your Insured : Louis Kowieski - Driver

: Unknown Policy #

Date of Loss : 02/08/2008 @ 1:40 PM

Our Client

: Mary Kay Cosmetics

CEI File#

: 696563

### 1ST REPORT

Attached is the CEI Loss Report for the above mentioned accident. Also attached is a copy of the police report.

CEI is the 3rd Party Administrator for the damage sustained to our client's vehicle. We are attempting to obtain claim information to pursue subrogation.

Please verify and/or establish a claim with the information provided and contact me at the above phone number as soon as possible. Thank you for your anticipated cooperation.

Sincerely, Joseph Lence Joseph Pierce	/			LM 4/3/08		
CEI Services		_9_ pages	total		1 1 .	1./
215-364-8253 X# 14		******	*****	****		/NS
Adjusters Name	:	и				
Claim #	:					
Adj. Mailing Addi	ress:			<del>,</del>		
Phone#	:	Ext	:	Fax#:		
E-mail Address	:					
Please Fax Back to	CEI Service	es @ 215-953-4178				

Car Qualifier: HOEFT, SANDRA CEI FILE #: 696563

Apr. 3. 2000 1:4194 ...

**AUTOMOBILE LOSS NOTICE** 

PRODUCER:	The CEI Group	REPORT DATE:	02/11/2008 3:13AM EST
I KODDOLK.	Bucks County Technology Park	DATE/TIME OF LOSS:	02/30/2008 6:40PM EST
	4850 Street Road Tower 1 Building	WEEKDAY OF LOSS:	Sunday
	Trevose, Pa 19053	CAR QUALIFIER:	SANDRA HOEFT
	USA	DRIVER:	SANDRA HOEFT (Car Qualifier)
CLIENT:	GE Fleet Services	CLAIM CONTACT: PHONE:	SANDRA HOEFT (Car Qualifier)
		CLIENT CLAIM #: COST CENTER:	W3YY9
Branch:	101027 - Career Car Qualifier Account		
LEVEL 1:	101027	LEVEL 4:	00A105
LEVEL 2:	000006	LEVEL 5:	
LEVEL 3:	000942	LEVEL 6:	

LOSS NOTICE INFORMATION

STREET: INTERSECTION: CITY, STATE/PR COUNTY:		199th Street South Oklahoma Avenue West West Allis, WI	AUTH. CONTAI POLICE PHONI REPORT #: OFFICER'S NAI	E#: On Police Report	•
WEATHER Clear	ROAD CONDITIONS	TRAFFIC CONTROLS Stop Sign	SPEED LIMIT	TRAVELING SPEED DIRECT	ION OF TRAVEL
DESCRIPTION OF	ACCIDENT ind a snow plow at a sto	op sign. The plow backed up and	I hit the front of my vehic	le.	
VIOLATIONS/CIT	ATIONS ISSUED	Į.	NS VEH/OTHER VEH	VEHICLE DRIVER	
ACCIDENT CODE Other Vehicle Hit (			ACCIDENT TYPE Backing Up	i.	

**INSURED VEHICLE** 

					ILD AFIIIARE		
VEH#	YEAR	MAKE:	Pontiac	BODY TYPE:	4 Door	PLATE:	535KVZ
1 .	2007	MODEL:	Grand Prix	VIN:	2G2WP552971137339	STATE/PROVINCE:	Wi
		COLOR:	Silver	MILEAGE/KM:	16,960	UNIT #:	7600285
CAR QUA SANDRA I 2351 E Bei Milwaukee	IOEFT		PHONE (W-Cell): 4	114-483-7272	DRIVER'S LICENSE #: DRIVER'S LICENSE STAT DATE OF BIRTH: HIRE DATE:	TE/PROVINCE:	xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
DRIVER SANDRA H 2351 E Bei Milwaukee	nett Ave		PHONE (W-Çeli): 4	114-483-7272	RELATIONSHIP: DRIVER'S LICENSE #: DRIVER'S LICENSE STAT WEARING SEATBELT? USING CELL PHONE? DID AIRBAG DEPLOY?	TE/PROVINCE:	Car Qualifier xxxxxxxx XX Yes No No
PRIMARY II		GE:	Front None		SUBROGATION:	Yes	

OTHER ITEMS DAMAGED OR STOLEN

Damaged Item(s) NONE	Damaged Amount(s)	·	
NONE			

**PROPERTY DAMAGED/OTHER VEHICLES** 

OTHER VEH#: 2	YEAR 2000	MAKE: MODEL: PLATE;	FREIGHTLINER DUMP 54839	INSURED: INSURANCE COMPANY: INSURANCE AGENT: INSURANCE PHONE: POLICY #:	Yes Cities & Villages Mutual Ins. Co.
OWNER City of west allis 7525 W Greenfield Aver Milwaukee, WI 53214	nue	<u>PHONE</u> (W): (414) 30	92 - 8000	OTHER DRIVER Louis Kowieski 719 S 97th Street Milwaukee, WI 53214	PHONE (H): (414) 475 - 0219
PRIMARY IMPACT: ADDITIONAL DAMAGE	:	None		DIRECTION OF TRAVEL:	

**INJURIES** 

NAME & ADDRESS NONE	PHONE	PEDIVEH	VEHICLE OWNER	AGE	AMBULANCE EXTENT OF INJURY

**WITNESSES** 

NAME & ADDRESS	PHONE	
NONE		

**PASSENGERS** 

NAME & ADDRESS	PHONE	INS VEH/OTHER VEH	VEHICLE OWNER
NONE			

### SUPPLEMENTAL INFORMATION

Client Requested Data  1. Insurance Carrier:	<u>Driver Resprise</u> ACE AMERICAN INS. CO.
2. Insurance Policy:	ISAH08231448
3. Location Code;	P21HB9898
4. Consultant Number:	нв9898
5. Spanish Speaking	No

This is the extent of the information available at this time. For further information, please contact the driver/custodian of the insured vehicle.

2351 East Bennett Avenue Milwaukee, Wisconsin 53207 (414) 483-7272 Fax: (414) 483-7272

MAR-26-2008 WED 06:47 AM RDM Municipal Supply



696563



To:	ary k.	Front	Sandra L. Hoeft	
Faxa Q15	-953-4178	Pagesi	6	
Phones		Detec	3-25-08	
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MAR-28-2008 WED 06:47 AM RDM Municipal Supply

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	A truck with at least two axiss and six tires	A truck with a hazardou	A truck with a hazardous materials placard							
	138  A bus designed to carry 16 or more persons, including the driver									
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	Unit Number									
	137 - Hazardous Materials Class Numbers									
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BUS	137 - Name Of Hazardous Materials in this Load 137 - Name Of Hazardous Materials Relaised									
TRUCK/BUS	138 140 - US DOT No. 140 - ICC MC	ND. LC NO. IC NO.	141 - Source							
T.	139 - Carrier Name									
	142 - Carrier Address	City	State Zip Code							
	142 - GVWR (Lbs) 144 - Total No. of Axles 145 - Vahicle Co	figuration 147 - Cargo Body Typs								
	146 - First Event	146 - Second Event								
	145 - Third Event	148 - Fourth Event								





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

April 7, 2008

Mr. Joseph Pierce, CEI Services CEI Auto Claims Management 4850 Street Road Suite 220 Trevose, PA 19053

Dear Mr. Pierce:

This letter acknowledges receipt of your communication on behalf of Mary Kay Cosmetics regarding vehicle damage allegedly sustained at South 119 Street and West Oklahoma Avenue on February 8, 2008.

The original document will be submitted to the Common Council at its meeting of April 14, 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

Monica Shultz

/jml

cc: City Attorney