

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

**Hupy and Abraham s.c.**  
personal injury lawyers

RECEIVED  
OFFICE OF CITY ATTORNEY

AUG 29 2018

3:46 AM P.M.

August 20, 2018

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

VIA SOUTHEAST WISCONSIN PROCESS

PROCESS SERVER *Shannon*  
TIME: : AM/PM DATE  
( ) PERSONAL ( ) SUBSTITUTE  
( ) POSTED ( ) CORPORATE

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

Jim Owczarski  
City of Milwaukee Clerk  
200 East Wells Street, Room 205  
Milwaukee, WI 53202

RE: DuWayne D. Criter  
Date of Accident: August 10, 2018

Dear Mr. Owczarski:

Enclosed please find the original and four copies of the Notice of Injury 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  
Paralegal

DMR/  
Enclosures

\*§† MICHAEL F. HUPY  
\*Δ† JASON F. ABRAHAM  
\*† CHAD A. KREBLIN  
\*Y«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  
§V JOHN D. SIMMONS  
Y JENNA GREEN  
\*§ JAMES D. CARLSON  
\*RYAN J. TRUESDALE  
Y BENJAMIN K. LYNCH  
Y- THOMAS L. HILLERS  
\* ZACHARY R. ZELLNER  
\*§ RAMZY HALABY  
\*§ JEFFREY SCHULTZ  
§ licensed in Wisconsin  
§ licensed in Illinois  
Y licensed in Iowa  
\* licensed in Minnesota  
\*A licensed in Missouri  
^ licensed in Texas  
- licensed in Indiana  
> licensed in Arkansas  
† Certified Civil Trial Specialist  
by the National Board  
of Trial Advocacy

CITY CLERK'S OFFICE

2018 AUG 29 PM 1:41

Our law firm has thousands of satisfied clients.  
We have contributed to our communities for more than 45 years.

HUPY.COM

**TELL THEM YOU  
MEAN BUSINESS™**

NOTICE OF INJURY

**TO:** Jim Owczarski  
City of Milwaukee Clerk  
200 East Wells Street, Room 205  
Milwaukee, Wisconsin 53202,

RECEIVED  
OFFICE OF CITY ATTORNEY

AUG 29 2018

3:46 A.M./P.M.

Ghassan A. Korban  
Commissioner  
City of Milwaukee Department of Public Works  
Zeidler Municipal Building  
841 North Broadway, Room 501  
Milwaukee, Wisconsin 53202,

and

Kiewit Infrastructure Company  
3555 Farnam Street  
Omaha, Nebraska 68131

CITY OF MILWAUKEE  
2018 AUG 29 PM 1:40  
CITY CLERK'S OFFICE

**RE:** DuWayne D. Criter  
8049 60th Avenue  
Kenosha, Wisconsin 53142

Date of Accident: August 10, 2018  
Location: West St. Paul Avenue and North Plankinton Avenue  
Milwaukee, Wisconsin 53203

**PLEASE TAKE NOTICE**, pursuant to Wis. Stat. § 893.80, that on August 10, 2018, DuWayne D. Criter, an adult residing at the above address, was the operator of a motorcycle traveling eastbound on West St. Paul Avenue, at or near the intersection with North Plankinton Avenue, in the City and County of Milwaukee, Wisconsin; that at the same time and place, the front tire of the motorcycle operated by DuWayne D. Criter became stuck in the trolley tracks in the road, which caused him to lose control and lay down his motorcycle; that the Kiewit Infrastructure Company was operating within the course and scope of its employment and/or contract with the City of Milwaukee and/or the City of Milwaukee Department of Public Works to construct the trolley tracks in the roadway; that the Kiewit Infrastructure Company negligently

constructed and/or installed said trolley tracks; that the City of Milwaukee and/or the City of Milwaukee Department of Public Works had responsibility for the safety and maintenance of the roadway at the time and location of the accident; and that the City of Milwaukee and/or the City of Milwaukee Department of Public Works and/or Kiewit Infrastructure Company were negligent in failing to properly warn motorists of an unsafe condition in the roadway and/or otherwise failing to properly execute a ministerial duty with respect to the roadway and the safety of motorists traveling on that roadway, thereby creating an unreasonable risk of harm and thereby causing DuWayne D. Criter's injuries and damages.

As a result of this incident, DuWayne D. Criter sustained injuries and damages. A claim for damages under § 893.80(1d)(b) will be made at a later date.

Liability for DuWayne D. Criter's injuries and damages is attributed to the City of Milwaukee and/or the City of Milwaukee Department of Public Works as the governmental body responsible for maintaining the roadway at the time and location of the accident and pursuant to the theory of *Respondeat Superior*, in that it is liable for the acts of its employees, servants, agents, and/or volunteers operating in the course and scope of their employment and/or contract, in this case, the Kiewit Infrastructure Company, who was responsible for constructing the trolley tracks at the time of the accident, while in the course and scope of its employment and/or contract with the City of Milwaukee and/or the City of Milwaukee Department of Public Works, resulting in DuWayne D. Criter's injuries and damages.

DATED at Milwaukee, Wisconsin this 20 day of August, 2018.

HUPY AND ABRAHAM, S.C.  
Attorneys for DuWayne D. Criter,

By: Michael H. Hupy  
Michael H. Hupy  
State Bar Number: 1014322

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