

RECEIVED

JUN 16 2014

OFFICE OF  
CITY ATTORNEY

June 11, 2014

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

To the attention of the Milwaukee City Clerk,  
Re: File No. 1029-2014-1400  
Communication from DAVID BERGER

I wish to appeal the denial of my complaint against the City of Milwaukee for the damage incurred to my vehicle on February 13, 2014 due to a improper manhole cover placement near North Maryland Avenue and East Edgewood Avenue. I request a hearing due to the fact that my claim had nothing to do with a sidewalk or street referred to in your response denying my claim dated June 4, 2014 and citing 2011 Wisconsin Act 132. My original claim contained pictures of the area before the incident and after as the city completely covered the manhole with asphalt which in my view is illegal and proves the manhole and cover was improperly placed. Manholes are in our streets for a reason and that is to gain access to the area below.

Please advise at earliest convenience

Cordially,



David J. Berger  
8712 W. Bonniwell Rd.  
Mequon, WI 53097

RECEIVED

MAY 6 - 2014

OFFICE OF  
CITY ATTORNEY

TO : City Clerk City Of Milwaukee, WI

RE: Tire Damage Manhole Cover/Surrounding Pavement

DATE: May 1, 2014

At approximately 21:45pm on February 13, 2014 I was traveling north on Maryland Avenue in the city of Milwaukee when I felt a violent thud to first the front and then the rear of my car which seemed like I hit an object. Upon slowing down while I approached East Edgewood Avenue I stopped the car before the intersection and inspected my car. Both my front and rear left side tires were flat. I slowly crossed the intersection and parked my disabled car on the northeast corner of Maryland Avenue and E. Edgewood Avenue, Shorewood, WI. I walked back to see what I hit and found a manhole cover a good four inches below the road surface with jagged edges surrounding it as well as a steep horizontal lip alongside it.

My daughter was with me and since it was late I called 911 and the Shorewood Police Department sent a squad out to watch over us until the tow truck arrived. My car had to be towed to Concours Motors, 1400 W. Silver Spring Drive and left overnight at great inconvenience to me and my daughter. We didn't get home until close to 00:30am.

Two days later on February 15, 2014 I returned to the area and took the images attached of the manhole, surroundings, street address of location etc. Also enclosed is a copy of the incident report from the Shorewood Police Department as well as the towing receipt and invoice for purchase of new tires from Concours Motors.

On April 24, 2014 I contacted the City Clerk and was referred to the City Attorney and left a message. A Mr. Steve Carini called me back and left a message to call him which I did the next day. He asked if I had made a report to the city and if not I should do it which I did on April 25, 2014 and Mr. Carini explained how I file a claim etc.

After speaking with Mr. Carini and filing the report I went back to the original scene to see the road condition now and to my amazement the manhole and most of the surrounding cracked and split pavement had been completely covered over with asphalt including the manhole cover! Obviously the city determined this manhole was improperly placed, not repairable or was unable to be lifted to street level or for whatever reason was a hazard to traffic. It was completely covered over so the road surface would be level and a similar accident like what happened to me and my daughter wouldn't happen again or worse to another driver.

CITY OF MILWAUKEE  
MAY -5 P 2:42  
CITY CLERK'S OFFICE

Attached are more images of the repaired or covered over manhole area taken by me on April 29, 2014. I have included shots of the surrounding buildings etc but with little effort it is obvious this is the same manhole which does not now exist or is accessible from the place the cover was before.

I cordially request the city reimburse me for my tire expenses as well as relief from this inconvenience and danger the city put me and my daughter in on the evening of February 13, 2014.

Your immediate attention to this matter is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "David J. Berger". The signature is written in a cursive style with a large initial "D" and "B".

David J. Berger

8712 W. Bonniwell Rd.

Mequon, WI 53097

414-467-1091

SHOREWOOD POLICE DEPARTMENT  
3936 N MURRAY AV  
SHOREWOOD, WISCONSIN 53211  
(414)847-2610

INCIDENT REPORT

Incident #: S14-01260

When Reported: 21:59:00 02/13/14  
How Received: Telephone  
Nature: Disabled Veh

Agency: SHOREWOOD POLICE DEPARTMENT

Offense Codes: NC Not Classified

Location of Incident: E EDGEWOOD AV & N MARYLAND AV; (22E)  
SHOREWOOD, WI 53211

Disposition: Closed Case on 02/13/14  
Occurred Between 21:59:00 02/13/14 and 22:39:00 02/13/14

Responsible Officer: M MEYERS

\_\_\_\_\_

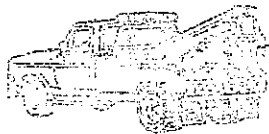
Supervisor:

\_\_\_\_\_

NARRATIVE:

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Stood by and assisted motorist with disabled vehicle.



**D & L RECOVERY INC.**

2840 W. Greves St.  
Milwaukee, WI 53233  
(414) 394-5529

009957

**TOWING REPORT**

PO# 1023728586

<b>OWNER</b>	NAME	Lova		
	ADDRESS			
	CITY	STATE	ZIP	
	PHONE	(714) 467-1091		

<b>PAY METHOD</b>
<input type="checkbox"/> CASH
<input type="checkbox"/> CHECK # _____
<input type="checkbox"/> CREDIT CARD
<input type="checkbox"/> ON ACCOUNT

DATE	TIME	<input type="checkbox"/> AM <input type="checkbox"/> PM	REQUESTED BY	MILEAGE BEFORE TOW
2/13/14	11:01		ALLSTATE	
YEAR	MAKE/MODEL/COLOR	VIN		
	Mercedes Benz	WDDDEJ86K19A02200007		
DRIVER	REGISTRATION NO.	LICENSE NO.		
13199		DC 85		
LOCATION OF VEHICLE	TOWED TO			
N. Maryland Ave & E. Edgewood	Orion Motors			

MILEAGE	SERVICE TIME	EXTRA TIME
FINISH _____	FINISH _____	FINISH _____
START _____	START _____	START _____
TOTAL _____	TOTAL _____	TOTAL _____

<input type="checkbox"/> SLING/HOIST TOW	<input type="checkbox"/> FLAT TIRE	<input type="checkbox"/> SINGLE LINE WINCHING
<input type="checkbox"/> WHEEL LIFT	<input type="checkbox"/> OUT OF GAS	<input type="checkbox"/> DUAL LINE WINCHING
<input type="checkbox"/> FLAT BED/RAMP	<input type="checkbox"/> WRECK	<input type="checkbox"/> SNATCH BLOCKS
<input type="checkbox"/> START	<input type="checkbox"/> RECOVERY	<input type="checkbox"/> SCOTCH BLOCKS
<input type="checkbox"/> LOCK OUT	<input type="checkbox"/> _____	<input type="checkbox"/> _____

I HAVE BEEN ADVISED THAT MY VEHICLE MAY BE DAMAGED IF WINCHED, TOWED, UNLOCKED OR LEFT ON UNATTENDED PREMISES. I RECOGNIZE THE DIFFICULTY INVOLVED AND I AGREE NOT TO HOLD THE TOWING SERVICE RESPONSIBLE FOR SUCH DAMAGE SHOULD IT RESULT.

SIGNATURE OF CAR OWNER OR AGENT	DATE
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**VEHICLE WILL NOT BE RELEASED UNTIL TOWING SERVICE IS PAID.**

REMARKS	MILEAGE CHG.	
	TOWING CHG.	
	LABOR CHG.	
	STORAGE CHG.	
	SUBTOTAL	
SIGNATURE OF TOW OPERATOR	TAX	
	<b>TOTAL</b>	
AUTHORIZED SIGNATURE	DATE	

CUSTOMER #: 248071

641561

# CONCOURS

Motors, Inc.

1400 West Silver Spring Drive  
Milwaukee, Wisconsin 53209-4417  
(414) 290-1400

www.concoursmotors.com

Volkswagen · BMW · Mazda · Mercedes Benz · Saab · Porsche

DAVE BERGER  
8712 W BONNIWELL DR  
MEQUON, WI 53092  
HOME: 414-467-1091 CONT: 414-467-1091  
BUS: CELL:

\*INVOICE\*

PAGE 1

SERVICE ADVISOR: 203 STEVE PUTTERMAN

COLOR	YEAR	MAKE/MODEL	VIN	LICENSE	MILEAGE IN/OUT	TAGGED	
040/BLACK	09	MB CL550C4	WDDEJ86X49A020027	DC85	56221/56221	T027M	
DEL DATE	PROD DATE	WARR EXP	PROMISED	PO NO	RATE	PAYMENT	INV DATE
23JAN08	DD13JUN08	22JAN2012	17:00	19MAR14		CASH	19MAR14
RO OPENED	DATE OFFERED BACK	OPTIONS: ENG:5.5 Liter 1)N/C TIRE ROTATIONS					
13:37	19MAR14	14:14	19MAR14				

LINE	OPCODE	TECH	TYPE	HOURS	LIST	NET	TOTAL
A	OWNER STATES A	POTHOLE WAS HIT AND LEFT SIDE TIRES WENT FLAT					
	G4	TIRE MOUNT & BALANCE 4 NEW TIRES					
		399 CMC				80.00	80.00
	4	BALALUM WEIGHT			2.50	2.50	10.00
	4	DISPOSAL TIRE			1.25	1.25	5.00
	4	Q-8-40-0651 CONTINENTAL 255/40R19, SKU 0350384			341.00	341.00	1364.00
PARTS:	1379.00	LABOR:	80.00	OTHER:	0.00	TOTAL LINE A:	1459.00

\*\*\*\*\*

TAX 81.71  
1540.71

*Where Service Makes The Difference  
Since 1955*

Thank you for allowing us to service your vehicle!

For Appointments, please call:  
(414) 290-1400

**Service Hours:**

Monday - Friday 7:00am - 5:30pm

STATEMENT OF DISCLAIMER

The factory warranty constitutes all of the warranties with respect to the sale of this item/items. The Seller hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or fitness for a particular purpose. Seller neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of this item/items.

CUSTOMER SIGNATURE

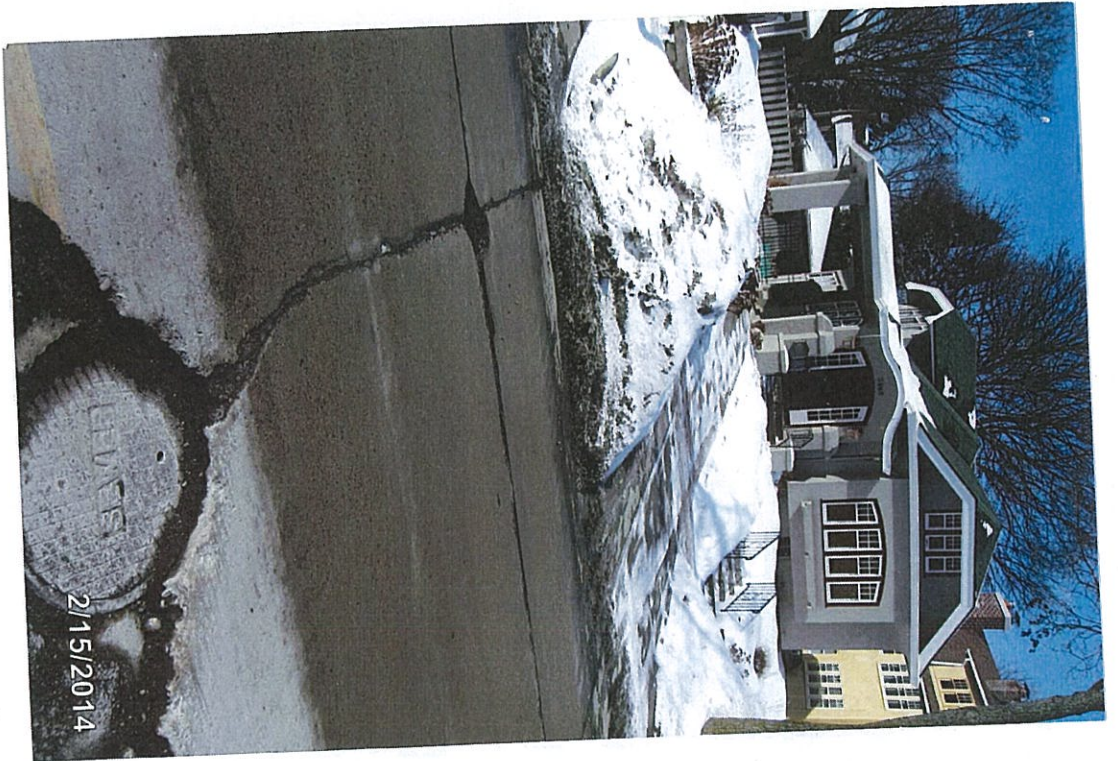
DESCRIPTION	TOTALS
LABOR AMOUNT	80.00
PARTS AMOUNT	1379.00
GAS, OIL, LUBE	0.00
SUBLET AMOUNT	0.00
ENVIRONMENTAL/SUPPLIES	0.00
TOTAL CHARGES	1459.00
LESS INS./DISC./COUPON	0.00
SALES TAX	81.71
PLEASE PAY THIS AMOUNT	1540.71

Note: There will be a \$25.00 fee for all returned checks.

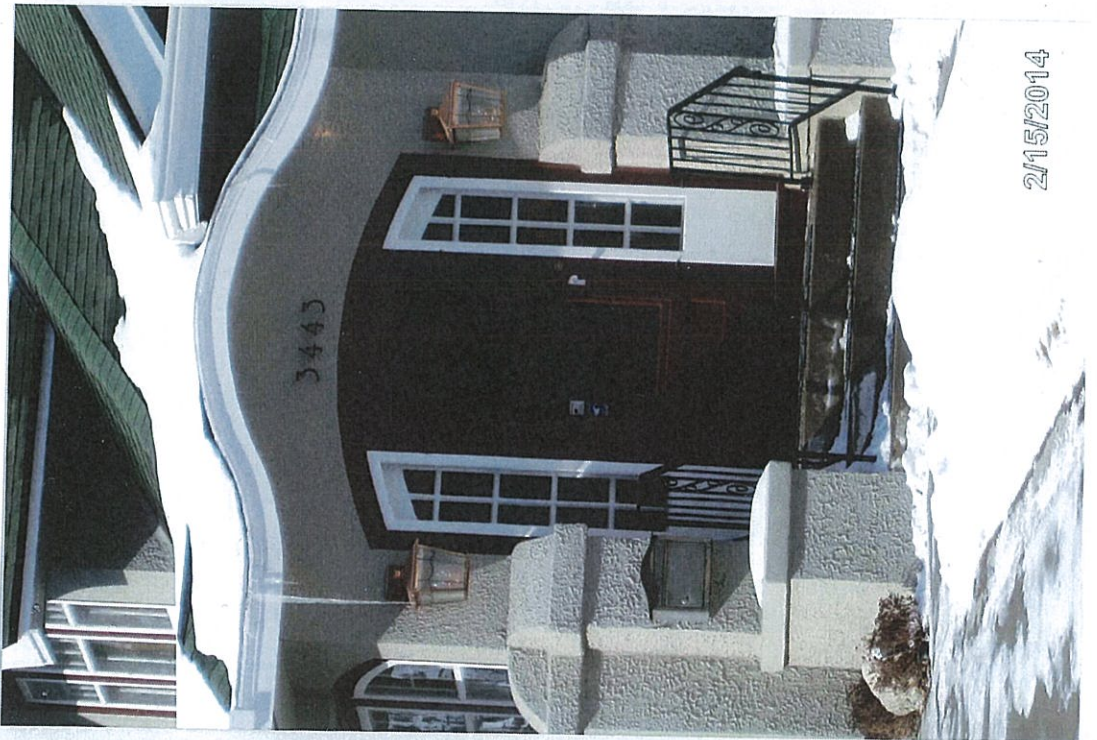
Motor Vehicle repair practices are regulated by chapter ATCP 132, Wis. Adm. Code, administered by the Bureau of Consumer Protection, Wisconsin Dept. of Agriculture, Trade and Consumer Protection, P.O. Box 5811, Madison, Wisconsin 53708-8911.

CUSTOMER COPY

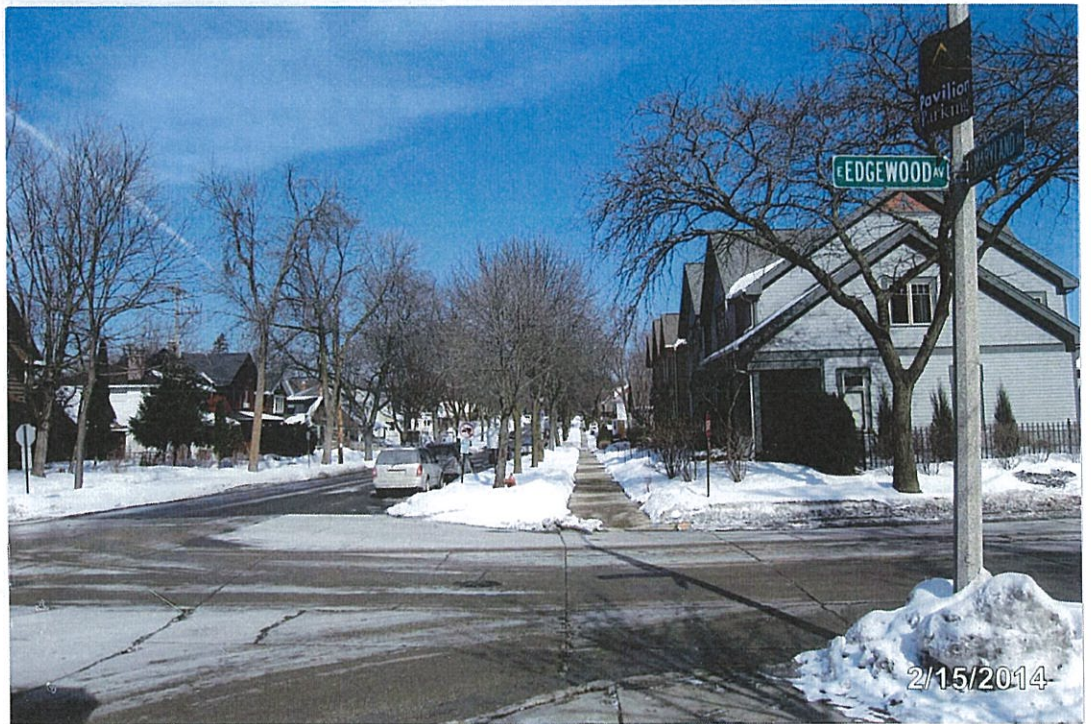
UNREPAIRED  
MANHOLE  
2/13/14



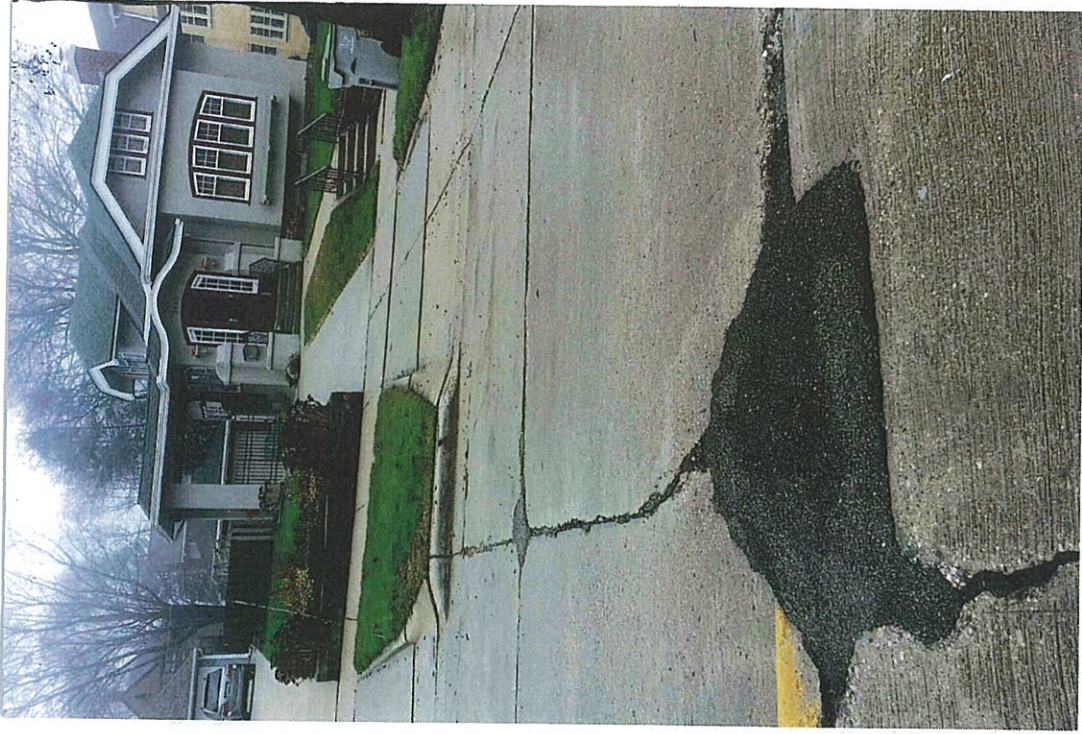












REPORTED  
MAY 10/14  
4/29/14







