



Carlson, Blau & Clemens, S.C.

Injury Attorneys

3535 West Wisconsin Avenue
Milwaukee, Wisconsin 53208-3153
Phone 414-342-1000
Fax 414-342-5060

September 19, 2019

**APPEAL OF DENIAL OF LIABILITY
POSTMARKED AUGUST 30, 2019
C. I. File 1030-2019-80
HAND DELIVERED**

John P. Carlson
David M. Blau
Chris M. Clemens
Randall M. Aronson
George E. Chaparas
Of Counsel
Gene N. Silverman
Medical Consultant
David L. Heber, M.D., F.A.C.S.

CITY CLERK'S OFFICE
2019 SEP 19 PM 1:12

SEP 23 2019
3:45 A.M./P.M.

Mr. Jim Oweczarski
Milwaukee City Clerk
200 East Wells Street, Room 205
Milwaukee, Wisconsin 53202

Re: Our Client: Gwendolyn R. Person
Date of Loss: December 3, 2018
C. I. File No.: 1030-2019-80

Dear Mr. Oweczarski:

Pursuant to Milwaukee City Ordinance Finance 304-7 section 3, Gwendolyn R. Person hereby states she is aggrieved by the denial of her above referenced claim and requests the Common Council of the City of Milwaukee, Wisconsin provide her with the right of review of her claim as provided by City Ordinance.

Ms. Person is aggrieved by the denial of her claim as follows:

1. When her vehicle was struck by the City's dump truck she was stopped behind another car waiting to turn right into a parking lot.
2. Her vehicle was fully and completely in her lane of traffic. No part of her vehicle was in the lane of traffic of the City's dump truck.
3. The damage to her vehicle reveals the City's dump truck first contacted the forward area of the left rear wheel well and then continued in a forward direction toward the driver's door of her vehicle. Said damage is consistent with the direction of travel of the City's dump truck.

The forgoing does not exhaust all of the grounds which Ms. Person expects to elicit at the hearing of her appeal herein.

Enclosed is a copy of the City Attorney's letter dated August 28, 2019, denying liability and its enclosed envelope postmarked August 30, 2019, from which this appeal is taken. Please contact this office to schedule the hearing requested herein.

Sincerely,
CARLSON, BLAU & CLEMENS, S. C.
Attorneys for Gwendolyn R. Person

By: *Randall M. Aronson*



800 City Hall, 200 E. Wells St., Milwaukee, WI 53202, Telephone 414-286-2601, Fax 414-286-8550

MEMORANDUM

TO: Receiving City Department

FROM: City Attorney's Office - Claims Section

RE: New Claim Filed

We have received the attached claim. Please review your records and determine if any accident reports were sent to your department from us to bill this loss. If so, please bill this immediately and send it to the Kohn Firm under the protocol.

SMC/cdr

/189516

JAN 14 2019

3:50 A.M./P.M.

WRITTEN NOTICE OF CIRCUMSTANCES OF CLAIM
PURSUANT TO SECTIONS 893.80(1d)(a), 345.05(3) and 801.11(4)(a)3. WIS. STATS.
(2011)

TO: The City of Milwaukee, a municipal corporation, care of its City Clerk, Mr. Jim Owczarski, in his office at City Hall, 200 E. Wells St., Room 205, Milwaukee, WI. 53202

NOTICE OF CIRCUMSTANCES OF CLAIM as required by Section 893.80(1d)(a), Wis. Stats. (2011), is hereby served upon the City of Milwaukee that Gwendolyn R. Person suffered personal injuries and property damage and has a claim therefore under the following circumstances:

1. That Gwendolyn R. Person is an adult residing at 4419 West Olive Street, Milwaukee, Wisconsin 53216.
2. That on or about the 3rd day of December, 2018, at approximately 10:26am, Gwendolyn R. Person was operating a motor vehicle traveling westbound on West Hampton Avenue just west of its intersection with North 76th Street in the City and County of Milwaukee, State of Wisconsin, when she was struck on the driver's side by one Malcolm Wilson, Jr., who, on information and belief, is an employee and/or agent of the City of Milwaukee and was operating a City of Milwaukee motor vehicle within the scope of his said employment and/or agency at the time of these events.
3. That said Malcolm Wilson, Jr. was negligent for a lane deviation and intrusion into Gwendolyn R. Person's lane of traffic, and was otherwise negligent all as is set out in more detail in the Wisconsin Motor Vehicle Accident Report number J9L0HKW14X, dated December 3, 2018, prepared by the Milwaukee Police Department, which is attached hereto and incorporated herein as if fully set forth at length.
4. That as a direct and proximate result of the City of Milwaukee's employee's negligence, claimant was caused to suffer property damage and severe and permanent personal injuries, including, but not limited to, injuries to her back and knee

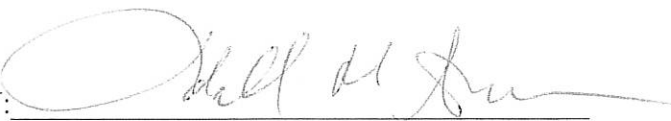
PLEASE TAKE NOTICE that this is a **Notice of Circumstances of Claim**, under Section 893.80(1d)(a), Wis. Stats. (2011). It is **not a claim** under Section 893.80(1d)(b), Wis. Stat. (2011). **Therefore, there is nothing for City of Milwaukee to allow or disallow with respect to this document.** After Gwendolyn R. Person's treatment is completed and her injuries are evaluated, she will present a claim under Section 893.80(1d)(b), Wis. Stats. (2011) for the party served herein to allow or disallow as it sees fit. There is no requirement that Gwendolyn R. Person serve a claim, as opposed to a **Notice of Circumstances of Claim**, within 120 days of her December 3, 2018, injury. See Figgs v. City of Milwaukee, 121 Wis.2d 44, 357 N.W.2d 548 at 552 (1984).

Original

CITY OF MILWAUKEE
2019 JAN 11 AM 11:12
CITY CLERK'S OFFICE

Dated this 16th day of January, 2019

CARLSON, BLAU, & CLEMENS, S.C.
Attorneys for Claimant, Gwendolyn R. Person

BY: 
Randall M. Aronson
State Bar No. 1007585

POST OFFICE ADDRESS
3535 West Wisconsin Avenue
Milwaukee, Wisconsin 53208

JAN 14 2019

WRITTEN NOTICE OF CIRCUMSTANCES OF CLAIM
PURSUANT TO SECTIONS 893.80(1d)(a), 345.05(3) and 801.11(4)(a)3. WIS. STATS. (2011) _____ A.M./P.M.

TO: The City of Milwaukee, a municipal corporation, care of its City Clerk, Mr. Jim Owczarski, in his office at City Hall, 200 E. Wells St., Room 205, Milwaukee, WI. 53202

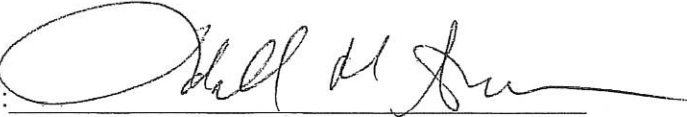
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Dated this 16th day of January, 2019

CARLSON, BLAU, & CLEMENS, S.C.
Attorneys for Claimant, Gwendolyn R. Person

BY: 
Randall M. Aronson
State Bar No. 1007585

POST OFFICE ADDRESS
3535 West Wisconsin Avenue
Milwaukee, Wisconsin 53208

J9L0HKW14X
183370789

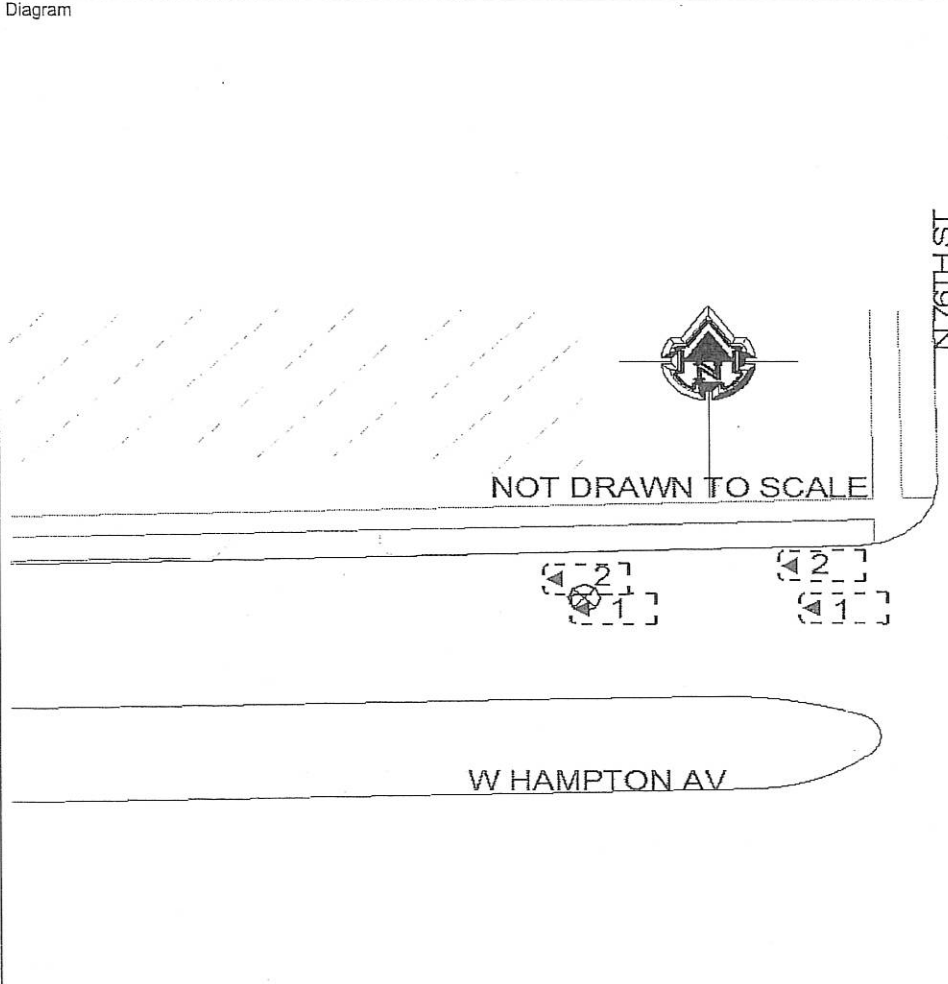
WISCONSIN MOTOR VEHICLE CRASH REPORT

MILWAUKEE POLICE DEPARTMENT
749 WEST STATE STREET
MILWAUKEE, WI 53201
(414) 933-4444

J9L0HKW14X

Document Number Override		Primary Crash Document #	Agency Crash Number	Investigating Officer/Deputy D. ROBINSON	
Crash Date 12/03/2018		Crash Time 10:26 AM	Date Arrived 12/03/2018	Time Arrived 10:43 AM	
Date Notified 12/03/2018		Time Notified 10:31 AM	Total Units 02	Total Injured 00	Total Killed 00
<input type="checkbox"/> On Emergency	<input type="checkbox"/> Hit and Run	<input type="checkbox"/> Lane Closure	<input type="checkbox"/> Work Zone	<input type="checkbox"/> Trailer or Towed	<input type="checkbox"/> Reporting Threshold
<input type="checkbox"/> Government Property	<input type="checkbox"/> Active School Zone	School Bus Related NO		Tags SUPERVISOR APPROVED	
<input checked="" type="checkbox"/> Reportable	Crash Type DT4000 (STANDARD CRASH)		<input type="checkbox"/> Amended	<input type="checkbox"/> Secondary Crash	

Description

Diagram 	Reconstruction By
	Photos By
	Additional Information NONE

RECEIVED
OFFICE OF CITY ATTORNEY

JAN 14 2019

3:50 A.M./P.M.

I, a sworn law enforcement officer, agree that I have not added any CJIS data in this report.

UNIT 1 AND UNIT 2 TRAVELED WEST ON W HAMPTON AV AND COLLIDED IN THE 7600 BLOCK OF W HAMPTON AV.

THE OPERATOR OF UNIT 1 WAS UNAWARE OF A COLLISION. THE OPERATOR OF UNIT 1 DID STATE THAT HE WAS GOING WEST ON W HAMPTON AV WHERE THE OPERATOR OF UNIT 2 STATED THE COLLISION OCCURRED.

THE OPERATOR OF UNIT 2 STATED THAT SHE WAS IN THE RIGHT LANE TURNING RIGHT WHEN SHE COLLIDED WITH UNIT 1.

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WISCONSIN MOTOR VEHICLE
CRASH REPORT

MILWAUKEE POLICE DEPARTMENT
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MILWAUKEE, WI 53201
(414) 933-4444

Location

ON CTHEE WB 202 FT W OF STH181 NB IN THE CITY OF MILWAUKEE IN MILWAUKEE COUNTY	Latitude	Longitude
	43.104989006	-88.007381526
	X Coordinate	Y Coordinate
	418029.65625	4772966
	Structure Type	

Crash Scene

First Harmful Event		First Harmful Event Location	
MOTOR VEH IN TRANSPORT		ON ROADWAY	
Manner of Collision		Light Condition	
05--SIDESWIPE/SAME DIRECTION		DAYLIGHT	
Road Surface Condition(s)		Roadway Factor(s)	
DRY			
Environment Factor(s)			
NONE		NONE	
Weather Condition(s)		Relation To Trafficway	
CLOUDY			
Animal Type		TRAFFICWAY - ON ROAD	
Crash Classification - Location		Crash Classification - Jurisdiction	
PUBLIC PROPERTY		NO SPECIAL JURISDICTION	
Tribal Land		Access Control	Special Study
		NO CONTROL	
Within Interchange Area	Junction Location	Intersection Type	
NO	NON-JUNCTION	NOT AN INTERSECTION	

Unit Summary

01 UNIT	Unit Status		Vehicle Operating As Classification		Unit Type					
	IN TRANSIT		B CLASS		TRUCK					
	Vehicle Type					Operating As Endorsements				
	STRAIGHT TRUCK (INSERT TRUCK)									
	Total Occs		Train/Bus # Injured		Total # Citations Issued		Total Trailers		Total HazMat Types	
	1				0		0		0	
	Insurance?		Direction Of Travel		Pre Crash Tire Mark		Speed Limit		Total Lanes	
	YES		WESTBOUND		<input type="checkbox"/>		30		3	
	Most Harmful Event: Collision With			Special Function			Emergency Motor Vehicle Use			
	MOTOR VEH IN TRANSPORT			NO SPECIAL FUNCTION			NOT APPLICABLE			
Traffic Way			Traffic Control			Traffic Control Inoperative/Missing				
DIVIDED HWY W/O TRAFFIC BARRIER			NO CONTROL			NO				
Surface Type			Road Curvature			Road Grade				
BLACKTOP (BITUMINOUS)			STRAIGHT			LEVEL				
Truck Bus or HazMat										
TRUCK OR TRUCK COMBINATION > 10,000LBS GVWR/GCWR										

Vehicle

01 UNIT VEHICLE	License Plate Number		Plate Type		St		Country of Issuance	
	72694		MUN - MUNICIPAL		WI		UNITED STATES	
	Vehicle Identification Number		Make		Year		Model	
	2FZMAZDA37AY38577		STERLING		2007		DUMP	
	Color		Body Style			Bus Use		
YEL - YELLOW		DP - DUMP TRUCK			NOT A BUS			
Initial Contact Point		Vehicle Damage						
1--RIGHT FRONT CORNER		1--RIGHT FRONT CORNER						
Extent Of Damage								
MINOR DAMAGE								

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WISCONSIN MOTOR VEHICLE
CRASH REPORT

MILWAUKEE POLICE DEPARTMENT
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(414) 933-4444

UNIT	Towed Due To Damage NOT TOWED		Vehicle Removed By		
	What Driver Was Doing GOING STRAIGHT		Vehicle Factors		
	Driver Prior Action Other		NOT APPLICABLE		
	Driver Actions UNKNOWN				
01	Driver Distractions UNKNOWN IF DISTRACTED				
	Owner Name MILWAUKEE CITY (414) 286-5561		Owner Address 2142 W CANAL ST MILWAUKEE, WI 53233 , US		
UNIT	Sequence Of Events				
	01	Event MOTOR VEH IN TRANSPORT			
	02	Event			
	03	Event			
UNIT	Policy Holder				
	Insurance Company SELF-INSURED		Government MILWAUKEE CITY		
	Individual				
	UNIT	INDIVIDUAL	Driver MALCOLM WILSON JR (414) 555-3022		Citations Issued 0
Address 3823 N 5TH ST MILWAUKEE, WI 53212 , US			Sex MALE		
Driver License Number W4255406111008		Race BLACK			
STATE: WISCONSIN COUNTRY: UNITED STATES					
01	001	Equipment		Safety Equipment	
		On Duty Crash		SHOULDER & LAP BELT	
		Seat Position 1--FRONT SEAT-LEFT SIDE (DRIVER/MOTORCY		Helmet Compliance	
		Helmet Use		Tint Compliance	
		Eye Protection		Airbag	
		Injury		NO APPARENT INJURY	
Ejected NOT EJECTED		Ejection Path NOT EJECTED/NOT APPLICABL		Trapped/Extricated NOT TRAPPED	

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UNIT INDIVIDUAL	Medical Transport NOT TRANSPORTED		EMS Agency Identifier		EMS Run #		
	Hospital		Date of Death		Time of Death		
	Non Motorist		Striking Unit #	Prior Action	Location		To/From School
	Action						
	Action Other						
	Drug & Alcohol		Suspected Alcohol Use NO		Suspected Drug Use NO		
	Alcohol Test Given TEST NOT GIVEN		Alcohol Test Type		Alcohol Test Results		
	Drug Test Given TEST NOT GIVEN		Drug Test Type		Drug Test Results		
	Drug Type						
	Individual Condition APPEARED NORMAL						
UNIT 01 001 TRUCK BUS	Carrier						
	<input checked="" type="checkbox"/> Use Vehicle Owner Same as Carrier			Source VEHICLE-SIDE			
	Name MILWAUKEE CITY USDOT# 0			Address 2142 W CANAL ST MILWAUKEE, WI 53233 , US			
	GVWR MORE THAN 26,000 LB		Vehicle Configuration SINGLE UNIT TRUCK (3 OR MORE AXLES)		Cargo Body Type DUMP		
	US DOT # 0		Carrier Type INTRASTATE CARRIER		Permitted Load NOT APPLICABLE		
	<input type="checkbox"/> OS/OW Load	WI Permit Number	<input type="checkbox"/> Permitted Vehicle On Permitted Route	<input type="checkbox"/> Escort Vehicle Required By Permit	<input type="checkbox"/> Escort Vehicle Present		
	Measured Height	Measured Length	Measured Width	Measured Weight			

Unit Summary

UNIT 02	Unit Status IN TRANSIT		Vehicle Operating As Classification D CLASS		Unit Type AUTOMOBILE	
	Vehicle Type PASSENGER CAR				Operating As Endorsements	
UNIT	Total Occs 1	Train/Bus # Injured	Total # Citations Issued 0	Total Trailers 0	Total HazMat Types 0	
	Insurance? YES	Direction Of Travel WESTBOUND	<input type="checkbox"/> Pre Crash Tire Mark	Speed Limit 30	Total Lanes 3	
	Most Harmful Event: Collision With MOTOR VEH IN TRANSPORT		Special Function NO SPECIAL FUNCTION		Emergency Motor Vehicle Use NOT APPLICABLE	
	Traffic Way DIVIDED HWY W/O TRAFFIC BARRIER		Traffic Control NO CONTROL		Traffic Control Inoperative/Missing NO	

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Surface Type BLACKTOP (BITUMINOUS)		Road Curvature STRAIGHT	Road Grade LEVEL
Truck Bus or HazMat NO			
Vehicle			
02	License Plate Number 443ZPB	Plate Type AUT - AUTOMOBILE	St WI
	Country of Issuance UNITED STATES	Year 2015	Model CRUZE
02	Vehicle Identification Number 1G1PC5SB9F7205973	Make CHEVROLET	Year 2015
	Color SIL - SILVER (ALUMINUM)	Body Style SD - SEDAN	Bus Use NOT A BUS
UNIT	Initial Contact Point 9--LEFT SIDE MIDDLE	Vehicle Damage	
	Extent Of Damage FUNCTIONAL DAMAGE	8--LEFT SIDE REAR, 9--LEFT SIDE MIDDLE	
UNIT	Towed Due To Damage NOT TOWED	Vehicle Removed By OWNER	
	What Driver Was Doing RIGHT TURN	Vehicle Factors	
UNIT	Driver Prior Action Other	NOT APPLICABLE	
	Driver Actions UNKNOWN		
02	Driver Distractions UNKNOWN IF DISTRACTED		
	Owner Name GWENDOLYN R PERSON (414) 748-1192	Owner Address 4419 W OLIVE ST MILWAUKEE, WI 53216 , US	
Sequence Of Events			
04	01	Event MOTOR VEH IN TRANSPORT	
	02	Event	
	03	Event	
	04	Event	
Policy Holder			
UNIT	Insurance Company AMERICAN-FAMILY-INS-CO	Individual GWENDOLYN PERSON	
	Individual		
IT	Driver GWENDOLYN R PERSON (414) 748-1192	Citations Issued 0	Sex FEMALE
		Date of Birth 02/16/1949	Race BLACK

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WISCONSIN MOTOR VEHICLE
CRASH REPORT

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MILWAUKEE, WI 53201
(414) 933-4444

UN	INDIV	Address 4419 W OLIVE ST MILWAUKEE, WI 53216 , US		Driver License Number P6252964955609 STATE: WISCONSIN COUNTRY: UNITED STATES			
		Equipment		Safety Equipment			
02	002	On Duty Crash		SHOULDER & LAP BELT			
		Seat Position 1--FRONT SEAT-LEFT SIDE (DRIVER/MOTORCY		Helmet Compliance			
		Helmet Use		Tint Compliance			
		Eye Protection		Airbag NON DEPLOYED			
		Injury		Injury Severity NO APPARENT INJURY			
		Ejected NOT EJECTED		Ejection Path NOT EJECTED/NOT APPLICABL		Trapped/Extricated NOT TRAPPED	
		Medical Transport NOT TRANSPORTED		EMS Agency Identifier		EMS Run #	
		Hospital		Date of Death		Time of Death	
		Non Motorist		Striking Unit #	Prior Action	Location	To/From School
		UNIT	INDIVIDUAL	Action			
Action Other							
Drug & Alcohol				Suspected Alcohol Use NO		Suspected Drug Use NO	
Alcohol Test Given TEST NOT GIVEN				Alcohol Test Type		Alcohol Test Results	
Drug Test Given TEST NOT GIVEN				Drug Test Type		Drug Test Results	
Drug Type							
Individual Condition APPEARED NORMAL							