

1029-2002-2518  
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m 8-28-02

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

02CV008083

EMMA J. ADAIR  
6052 North 42<sup>nd</sup> Street  
Milwaukee, Wisconsin 53209

HON. TIMOTHY G. DUGAN, BR. 10

**CIVIL P**

Plaintiff,

Case No.

vs.

Code No. 30107

Personal Injury - Other

CITY OF MILWAUKEE,  
c/o City Clerk, City of Milwaukee  
205 City Hall, 200 East Wells Street  
Milwaukee, Wisconsin 53202

Defendant.

FILED AND AUTHENTICATED  
0 AUG 15 2002  
JOHN BARRETT  
Clerk of Circuit Court  
02 AUG 20 AM 11:34  
RONALD D. ...  
CITY OF MILWAUKEE

**SUMMONS**

THE STATE OF WISCONSIN

To each person named above as a defendant:

02 AUG 20 PM 3:55  
CITY OF MILWAUKEE  
RECEIVED  
OFFICE OF  
CITY ATTORNEY

You are hereby notified that the plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

Within forty-five (45) days of receiving this summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is Circuit

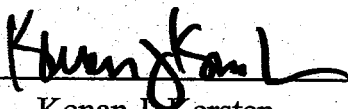
Court of Milwaukee County, Milwaukee County Courthouse, 901 North Ninth Street, Milwaukee, Wisconsin 53233, and to Kersten & McKinnon, S.C., plaintiff's attorney, whose address is 735 North Water Street, Suite 630, Milwaukee, Wisconsin 53202-4104. You may have an attorney help or represent you.

If you do not provide a proper answer within forty-five (45) days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Signed at Milwaukee, Wisconsin, this 13<sup>th</sup> day of August, 2002.

Respectfully submitted,

KERSTEN & MCKINNON, S.C.,  
Attorneys for the Plaintiffs,

by:   
Kenan J. Kersten  
State Bar No. 1008505

**KERSTEN & MCKINNON, S.C.**  
735 North Water Street, Suite 630  
Milwaukee, Wisconsin 53202-4104  
Telephone: (414) 271-0054  
Fax: (414) 271-7131

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

02CV0008083

EMMA J. ADAIR  
6052 North 42<sup>nd</sup> Street  
Milwaukee, Wisconsin 53209

Plaintiff,

Case No.

vs.

Code No. 30107

Personal Injury - Other

CITY OF MILWAUKEE  
02 AUG 20 AM 11:34  
DONALD D. LEONHARDT  
CITY CLERK

CITY OF MILWAUKEE,  
c/o City Clerk, City of Milwaukee  
205 City Hall, 200 East Wells Street  
Milwaukee, Wisconsin 53202

Defendant.

FILED AND  
AUTHENTICATED  
0 AUG 15 2002 0  
JOHN BARRETT  
Clerk of Circuit Court

COMPLAINT AND JURY DEMAND

The plaintiff, Emma J. Adair, by Kersten & McKinnon, S.C., her attorneys, hereby complains against the defendant, City of Milwaukee, as follows:

1. The plaintiff Emma J. Adair ("Ms. Adair") is an adult residing at 6052 North 42<sup>nd</sup> Street, Milwaukee, Wisconsin 53209.
2. The defendant, City of Milwaukee, is a municipal corporation incorporated under the laws of the State of Wisconsin. Its agent for service is the City Clerk for the City of Milwaukee, 205 City Hall, 200 East Wells Street, Milwaukee, Wisconsin 53202.
3. At approximately 9:30 a.m. on January 26, 2001, Ms. Adair, having just walked across West Wisconsin Avenue at its intersection with North Fourth Street in the

CITY OF MILWAUKEE  
RECEIVED  
02 AUG 20 PM 3:58  
OFFICE OF  
CITY ATTORNEY

City of Milwaukee, was intending to walk eastward on the north side of the street in the 300 block of West Wisconsin Avenue. Just east of North Fourth Street, Ms. Adair was caused to fall by a hazardous defect in the sidewalk. The hazardous defect resulted from the fact that a corner of a section of the sidewalk was raised substantially higher than abutting sections of the sidewalk in such a way that the raised part of the sidewalk was likely to cause people walking in the area to trip and fall.

4. Under Wisconsin Statutes Chapter 81 and other applicable Wisconsin law, the City of Milwaukee is bound to keep sidewalk areas, such as the area described above where Ms. Adair fell, in a good state of repair. Under Wisconsin Statutes § 81.15 and other applicable law, the City of Milwaukee is liable to persons sustaining injuries and other damages as a result of the City's failure to keep such sidewalk area in a good state of repair.

5. At and prior to the time Ms. Adair fell as described above, the City of Milwaukee violated the law referred to above and was negligent in failing to maintain the sidewalk and repair the defect so as to render that area of the sidewalk safe for pedestrians walking in that area and in failing to warn them of the hazard. The City of Milwaukee's violations of law and its negligent acts and omissions were each a cause of Ms. Adair being caused to fall and of her resulting injuries and damages.

6. When Ms. Adair fell as described above, she sustained serious and disabling injuries, including multiple compound fractures to her right knee which required extended hospitalization, orthopedic surgery, therapy and related medical care. Further

surgical procedures, including the removal of orthopedic pins, and other future medical care will be required. Her injuries have caused severe pain, suffering and disability. Ms. Adair has been caused to incur and will incur in the future substantial hospital and medical expenses, and she does not have medical insurance to assist with the payment of these expenses. As a further result of her injuries, Ms. Adair was also unable to return to her employment as a cleaning person so that she has also suffered and will in the future suffer a substantial loss of earnings and earning capacity. Ms. Adair's ability to perform and enjoy the ordinary activities of life has been substantially diminished. The effects of Ms. Adair's injuries, to a significant extent, are permanent. Her damages are in such amount as will be determined at trial herein based on the evidence presented.

7. On May 22, 2001, Ms. Adair caused a formal written notice of the circumstances of the above claim to be served upon the City Clerk for the City of Milwaukee in compliance with Wisconsin Statutes § 893.80(1)(a). Pursuant to Wisconsin Statutes § 893.80(1)(b), Ms. Adair caused a formal written claim to be served upon the City Clerk for the City of Milwaukee on January 22, 2002. The Common Council of the City of Milwaukee disallowed this claim on March 5, 2002. Copies of said the notice, claim and notice of disallowance are attached hereto. Six months have not elapsed since the disallowance of Ms. Adair's claim.

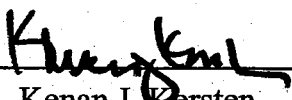
WHEREFORE, Ms. Adair prays for judgment in her favor and against the City for her damages in such amount as is determined at trial herein based on the evidence

presented and for her costs and disbursements incurred herein, including reasonable attorney's fees.

Signed at Milwaukee, Wisconsin, this 13<sup>th</sup> day of August, 2002.

Respectfully submitted,

KERSTEN & MCKINNON, S.C.,  
Attorneys for Claimant, Emma J. Adair,

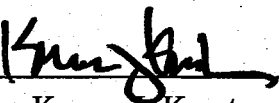
by:   
Kenan J. Kersten  
State Bar No. 1008505

**JURY DEMAND**

The plaintiff hereby demands trial by a jury of twelve persons of all issues of material fact herein.

Respectfully submitted,

KERSTEN & MCKINNON, S.C.,  
Attorneys for the Plaintiffs,

by:   
Kenan J. Kersten  
State Bar No. 1008505

**KERSTEN & MCKINNON, S.C.**  
735 North Water Street, Suite 630  
Milwaukee, Wisconsin 53202-4104  
Telephone: 414/271-0054  
Fax: 414/271-7131

NOTICE OF CIRCUMSTANCES OF CLAIM

CITY OF MILWAUKEE

01 MAY 22 AM 8: 59

RONALD D. LEONHARDT  
CITY CLERK

TO: City of Milwaukee  
c/o City Clerk, City of Milwaukee  
205 City Hall  
200 East Wells Street  
Milwaukee, WI 52302

PLEASE TAKE NOTICE of the following circumstances of a claim the City of

Milwaukee in favor of Emma J. Adair:

1. Emma J. Adair is an adult residing at 6052 North 42<sup>nd</sup> Street, Milwaukee, Wisconsin 53209.
2. At approximately 9:30 a.m. on January 26, 2001, Ms. Adair crossed Wisconsin Avenue at North Fourth Street proceeding northward. After crossing the street she proceeded to her right toward the Pill 'n' Puff store located in the Reuss Federal Plaza at 310 West Wisconsin Avenue. Immediately east of the intersection, Ms. Adair was caused to fall by a defective to fall by a defective corner piece of the sidewalk which was sticking up much higher than the adjoining corners, but was not obvious to pedestrians.
3. The City of Milwaukee is responsible for maintaining the sidewalk in a safe condition without defects.
4. Ms. Adair suffered serious injuries to her right knee in the fall on the sidewalk described above. She was taken by ambulance to St. Joseph's Hospital where she received treatment for her injuries. Ms. Adair had open surgery to her right knee on February 1, 2001. She has had to wear a knee brace for at least eight weeks and has received substantial physical therapy.

5. As a result of her injuries, Ms. Adair has missed several months of work as a cleaning lady for Clean Power, where she was employed at a rate of \$9 per hour and worked an average of 41.25 hours per week. She does not know when she will be able to return to work.

6. The foregoing injuries, which are permanent, caused Ms. Adair to suffer severe pain, suffering and disability, to incur hospital and medical expenses and to suffer a loss of income.

7. At and prior to the time of the incident described above, the City of Milwaukee, through its agents, servants and employees, was negligent in failing to maintain the sidewalk in a reasonably safe condition without defects, which negligence was a cause of the injuries sustained by Ms. Adair, as described above.

This notice is served upon you to comply with the requirements of § 893.80, *Wis. Stats.*, and to preserve the legal rights of Emma J. Adair.

Signed at Milwaukee, Wisconsin, this 22<sup>nd</sup> day of May, 2001.

KERSTEN & McKINNON, S.C.,  
Attorneys for Claimant, Emma J. Adair,

by: Leslie Van Buskirk

Leslie Van Buskirk  
State Bar No. 1008853

**KERSTEN & McKINNON, S.C.**  
231 West Wisconsin Avenue  
Suite 1200  
Milwaukee, Wisconsin 53203  
Telephone: 414/271-0054  
Fax: 414/271-7131



**CLAIM OF EMMA J. ADAIR AGAINST THE  
CITY OF MILWAUKEE**

CITY OF MILWAUKEE  
02 JAN 22 PM 4:01  
RONALD D. LEONHARDT  
CITY CLERK

In pursuant to the provisions of Wisconsin Statutes § 893.80(1)(b), Emma J. Adair, by Kersten & McKinnon, S.C., her attorneys, hereby makes claim against the City of Milwaukee as follows:

1. The claimant Emma J. Adair ("Ms. Adair") is an adult residing at 6052 North 42<sup>nd</sup> Street, Milwaukee, Wisconsin 53209.
2. At approximately 9:30 a.m. on January 26, 2001, Ms. Adair, having just walked across West Wisconsin Avenue at its intersection with North Fourth Street in the City of Milwaukee, was intending to walk eastward on the north side of the street in the 300 block of West Wisconsin Avenue. Just east of North Fourth Street, Ms. Adair was caused to fall by a hazardous defect in the sidewalk. The hazardous defect resulted from the fact that a corner of a section of the sidewalk was raised substantially higher than abutting sections of the sidewalk in such a way that the raised part of the sidewalk was likely to cause people walking in the area to trip and fall.
3. When Ms. Adair fell as described above, she sustained serious and disabling injuries, including multiple compound fractures to her right knee which required extended hospitalization, orthopedic surgery, therapy and related medical care. Further surgical procedures, including the removal of orthopedic pins will be required. Total hospital and medical expenses exceed Twenty Thousand Dollars (\$20,000). Ms. Adair does not have medical insurance to cover these expenses. At the time of her injury, Ms. Adair was employed

part time as a cleaning person for a company known as Clean Power, and her injuries rendered her unable to return to work so that she has suffered a substantial past loss of earnings, exceeding Twelve Thousand Dollars (\$12,000). Her injuries have caused severe pain, suffering and disability.

4. Under applicable Wisconsin law, the City of Milwaukee is bound to keep sidewalk areas, such as the area described above where Ms. Adair fell, in a good state of repair and is liable to persons sustaining injuries and other damages as a result of the City's failure to keep such sidewalk area in a good state of repair.

5. At and prior to the time Ms. Adair fell as described above, the City of Milwaukee was negligent in failing to repair the hazardous sidewalk defect so as to render that area of the sidewalk safe for pedestrians walking in that area and in failing to warn them of the hazard.

6. The negligent acts and omissions on the part of the City of Milwaukee referred to above and its failure to meet its responsibility to maintain City sidewalks in a good state of repair were a cause of the injuries and damages sustained by Ms. Adair as described above.

7. As and for her itemized statement of the relief sought, Emma J. Adair seeks compensation for:

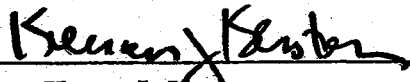
- a. Her past and future ambulance, hospital, medical and related expenses incurred as a result of her injuries described above;
- b. Her loss of earnings and the diminution of her future earning capacity resulting from said injuries;
- c. Her past and future pain, suffering and disability caused by her said injuries.

8. The effects of Ms. Adair's accident injuries are ongoing, continuing and are likely to be permanent. Ms. Adair will need further medical care, including future orthopedic surgery. Accordingly, at this time a specific dollar amount representing her total damages suffered cannot be stated. Ms. Adair's total damages greatly exceed Fifty Thousand Dollars (\$50,000). Because, under Wisconsin Statutes § 893.80, it is the statutory limit for damages recoverable against a municipality by any one person, Emma J. Adair, as part of her itemized statement of relief, claims damages in the sum of \$50,000.

9. On May 22, 2001, Ms. Adair caused a formal written notice of the circumstances of the above claim to be served upon the City Clerk for the City of Milwaukee in compliance with Wisconsin Statutes § 893.80(1)(a). A copy of said Notice is attached hereto.

Signed at Milwaukee, Wisconsin, this 22<sup>nd</sup> day of January, 2002.

KERSTEN & McKINNON, S.C.,  
Attorneys for Claimant, Emma J. Adair,

by:   
Kenan J. Kersten  
State Bar No. 1008505

**KERSTEN & McKINNON, S.C.**  
735 North Water Street  
Suite 630  
Milwaukee, Wisconsin 53202-4104  
Telephone: 414/271-0054  
Fax: 414/271-7131

**City of Milwaukee  
Office of the City Clerk  
City Hall  
Milwaukee, Wisconsin**

**NOTICE OF DISALLOWANCE CLAIM  
(Pursuant to Sec. 893.80 WIS. STATS.)**

**TO: Attorney Kenan J. Kersten  
735 North Water Street, Suite 630  
Milwaukee, WI 53202-4104**

You are hereby notified that the Common Council of the City of Milwaukee duly disallowed the claim filed by you. No action on your claim against the City of Milwaukee may be brought after six (6) months from the date of service of the Notice of Disallowance.

**FILE NUMBER: 011439**

**Regarding: personal injuries of your client, Emma J. Adair**

**Amount of Claim: \$50,000.00**

**Claim Disallowed on: March 5, 2002**

**Dated this 5th day of March, 2001**

*Ronald J. Leonhardt*

**Ronald Leonhardt  
City Clerk**

**Form: Disallow**

THE DOCUMENT  
DATE  
TIME  
NUMBER  
BT  
TA  
CLERK OF THE COURT  
MILWAUKEE, WISCONSIN