

## Charlotte Rodriguez - Appeal of City Attorney Langley Rejection of claim for catalytic converter destruction

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**From:** Donald F Thielke <don.thielke@juno.com>  
**To:** <crodiri@ci.mil.wi.us>, <mpratt@ci.mil.wi.us>  
**Date:** 9/12/01 8:16 PM  
**Subject:** Appeal of City Attorney Langley Rejection of claim for catalytic converter destruction  
**CC:** <don.thielke@juno.com>

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Dear City Clerk R. Leonhardt:

On August 27, 2001, City Attorney Grant Langley wrote a letter to me saying that his office denied my claim for recompense for destruction of my catalytic converter costing \$325.80 to repair as a result of hitting a pothole on W. Glendale Ave. and N. 47th Street on June 29, 2001. The investigative report to Mr. Langley cites a complaint made on June 5 to the Infrastructure Services Division about potholes on Glendale Ave. at N. 47th Street, which were then patched on June 6, according to the Division's records.

I think that there has been a misunderstanding of the chronology and action regarding the pothole problem I encountered. I confess that I am not aware of a complaint on June 5 resulting in repair of potholes at N. 47th Street. For health reasons related to open heart surgery in March, 1995, I walk through Wahl Park almost all early mornings, weather permitting, and cross at 47th Street walking south to Lincoln Creek on 47th Street. I have never noticed any potholes there; but on the bridge over Wahl Creek many small potholes appear due to snowplowing each spring that are usually repaired. I do not recall any other potholes at 47th Street and Glendale this year.

The chronology of events in this incident occurred in the following sequence as I experienced them:

1] On June 29, I was returning in the middle of the morning from an outpatient visit to my doctor at Aurora Health Clinic West at 92 and Capitol Drive along Lincoln Creek Parkway Drive and then west on Glendale. A few feet west of N. 46th Street and Glendale my car struck a large pothole and several smaller ones, resulting in the destruction of my catalytic converter, which had to be replaced.

2] On July 3, I contacted my alderman Marvin Pratt, president of the Common Council, and asked him to please try to get that pothole and several others there repaired and how to file a claim. The potholes were repaired a day or so later and he sent me a sheet of instructions on how to file a claim for damages, which I then did on Sept. 7 in a letter to City Clerk Leonhardt.

3] On Sept. 8, I sent an email to Ald. Pratt telling him the potholes had been repaired a few days earlier and thanked him for his help.

4] My claim, as mentioned above, was subsequently rejected by the City Attorney.

5] After considerable thought, I finally decided to file an appeal to that decision rejecting my claim because all of these events occurred to me in the course of this episode. True, I have no inkling of

CITY OF MILWAUKEE  
 2001 SEP 13 AM 7:47  
 RONALD D. LEONHARDT  
 CITY CLERK

CITY OF MILWAUKEE  
 RECEIVED  
 '01 SEP 13 PM 3:34  
 OFFICE OF  
 CITY ATTORNEY

the significance of the findings of Investigator Adjuster Steven M. Cafini other than the matter of repairing numerous small potholes on the bridge crossing Wahl Creek on Glendale between 47th and 46th Streets, which to my memory happens every spring in my experience.

I would appreciate your giving consideration to this appeal of mine.

Respectfully,

Donald F. Thielke  
4731 N. 45 Street  
Milwaukee, WI 53218-5208  
414-464-5222

ATTN: CLAIMS

Dear Mr. Leonhardt:

CITY OF MILWAUKEE

2001 JUL 12 AM 8:16

RONALD F. THIELKE  
CITY CLERK

On last Friday morning, June 29, while my wife Rosemary I were driving back from a heart checkup by Dr. Daniel Miota, Aurora West Medical Clinic, my car hit a pothole on W. Glendale Ave. just past 46th street on the south side of Glendale. Immediately after this accident, the impact as a consequence damaged my catalytic converter to the point that it had to be replaced at a cost of \$325.80 at Ray Bolanger's Service, 5237 W. Hampton Ave. [(414) 464-3006]

The last time the crack next to this manhole cover was repaired was last summer. Since the patch was gradually worn down and destroyed, eventually leaving a triangular pothole some two feet wide, two feet long, and two to three inches deep. Just west of this point, the potholes on the bridge over Wahl Creek were filled with asphalt repairs this spring. It is surprising to me that the crew did not work on the several potholes in the vicinity of the one I collided with. Indeed, one might consider this a case of negligence, don't you think?

I immediately phoned the Department of Public Works and notified the pothole repair supervisor of the existence of this pothole and a couple others nearby that needed repair. He said he would have somebody take a look at them.

Then I wrote Council President Marvin Pratt, my alderman, to ask him to confirm and back my request to the department. I also asked what I must do to file a claim against the City of Milwaukee, and he kindly sent me copy of the steps to take and the copy of Section 893.80(1), Wis. Stats.

A copy of the itemized receipt from Bolanger's Service is being sent under separate cover with a copy of this letter.

I would appreciate your considering this claim of mine.

Regards,  
*Donald F. Thielke*

Donald F. Thielke  
4731 N. 45 St.  
Milwaukee, WI 53218-5208  
[414] 464-5222

CITY OF MILWAUKEE  
RECEIVED  
'01 JUL 12 PM 4:18  
OFFICE OF  
CITY ATTORNEY

464-52222

# RAY BOLANDER'S SERVICE

MILWAUKEE, WISCONSIN 53218  
Phone: 464-3006

DATE OF ORDER: 7-3-01  
TIME PROMISED:  
DELIVERY DATE:  
PHONE NO.:

4731 N. 45 ST.  
1993 Blue Dodge  
1993 Blue Dodge  
3697

ADDITIONAL WORK AUTHORIZED BY:  
DATE: 7/3/01 TIME: 10:00 A.M. NAME: [Signature]  
OPER. NO. OPENING TIME: [Signature] A.M. PLANT NO. CALLED: [Signature] NEW ESTIMATE: [Signature]

Check exhaust noise  
Replace catalytic converter

EST. NO.	QUANTITY	DESCRIPTION	SALE PRICE	WARRANTY CHECKED																																																												
1	1	Catalytic Converter	236.00																																																													
2	2	Baskets	13.52																																																													
<p>ESTIMATE PRICE: \$</p> <p>LUBRICATE: <input type="checkbox"/> LABOR CHARGE: <input type="checkbox"/></p> <p>CHANGE OIL: <input type="checkbox"/></p> <p>CHANGE OIL FILTER: <input type="checkbox"/></p> <p>SERVICE BATTERY: <input type="checkbox"/></p> <p>SERVICE AIR CLEANER: <input type="checkbox"/></p> <p>ROTATE TIRES: <input type="checkbox"/></p> <p>CHANGE TRANS FLUID: <input type="checkbox"/></p> <p>ALIGN FRONT END: <input type="checkbox"/></p> <p>EMISSION CONTROL SERVICE: <input type="checkbox"/></p> <p>WARRANTY IF CHECKED: <input type="checkbox"/></p>																																																																
<p>INTERNAL SUM BY: ESTIMATE CHARGE</p> <table border="1"> <thead> <tr> <th>ASST. CHARGE</th> <th>COST</th> <th>CHARGE</th> <th>COST</th> <th>DESCRIPTION</th> <th>AMOUNT</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td>TOTAL LABOR</td> <td>57.00</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td>TOTAL PARTS</td> <td>249.52</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td>GAS, OIL &amp; GREASE</td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td>PAINT &amp; BODY MATERIALS</td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td>SUBLET &amp; TOWING</td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td>SUPPLIES</td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td>SUB TOTAL</td> <td>308.52</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td>SALES TAX</td> <td>12.28</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td>TOTAL</td> <td>320.80</td> </tr> </tbody> </table>					ASST. CHARGE	COST	CHARGE	COST	DESCRIPTION	AMOUNT					TOTAL LABOR	57.00					TOTAL PARTS	249.52					GAS, OIL & GREASE						PAINT & BODY MATERIALS						SUBLET & TOWING						SUPPLIES						SUB TOTAL	308.52					SALES TAX	12.28					TOTAL	320.80
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CUSTOMER SIGNATURE: [Signature]  
REPRESENTATIVE SIGNATURE: [Signature]

8911 Madison WI 53708-8911

WE HEREBY AUTHORIZE the above party to work on the above vehicle with complete responsibility for all work performed. The customer hereby releases the shop from all liability for damage to the vehicle or its contents, including theft, fire, flood, or other causes, while in the shop for service. The customer agrees to hold the shop harmless for any damage to the vehicle or its contents, including theft, fire, flood, or other causes, while in the shop for service. The customer agrees to hold the shop harmless for any damage to the vehicle or its contents, including theft, fire, flood, or other causes, while in the shop for service.

VEHICLE REGISTRATION

CITY MILWAUKEE STATE WI ZIP 53218  
1731 N 45 ST PHONE 414 464 5823  
MILWAUKEE  
 PURCHASED AT/INSTALLED BY BOB ANDERS  
 NAME 5227 W HAMPTON  
 ADDRESS MILWAUKEE  
 CITY MILWAUKEE STATE WI ZIP 53218  
 PHONE 414 464 5823

VEHICLE MAKE CHEV  
 MODEL MEIKO  
 YEAR 1983  
 ENGINE SIZE 1.3 C.I. or Liter  
 Mileage 36977  
 CONVERTER PART NO. 28571  
 DATE 7 INVOICE 3019  
 DATE 7-3-01

Installation Statement  
 Catalytic converters are emission control devices which are designed to last the life of the vehicle and do not normally require replacement. Furthermore, if the vehicle is properly used and maintained, original converters are covered by the emissions control warranty for 5 years or 50,000 miles. Federal law prohibits repair businesses from replacing these devices except under certain limited circumstances.  
 In order to verify that the proper circumstances exist, the owner of the vehicle on which such repairs are made and a facility representative must sign the following statement.  
 The vehicle is over five years old or has more than 50,000 miles on it and the catalytic converter is made and replacement because:  
 rust out (exhaust, plugged, rusted out, etc.)  
 The vehicle's catalytic converter was missing when the vehicle was brought in.  
 Non Functioning.

Vehicle Owner's Signature [Signature] Date 7-3-01  
 Facility Representative's Signature [Signature] Date 7-3-01

EN ESPAÑOL: PAGINA 2  
 EN FRANCAIS: PAGE 3  
 VEHICLE OWNER, RETAIN THIS COPY FOR YOUR RECORDS

PLEASE PRESS HARD WHEN WRITING  
 SUBLET REPAIRS - TOWING

	Gals. Gas @	Qtr. Oil @	Lbs. Grease @
TOTAL SUBLET REPAIRS			
TOTAL GAS, OIL & GREASE			

I HEREBY AUTHORIZE the above repair work to be done along with necessary materials. You and your employees may operate above vehicle for purposes of testing, inspection or delivery at my risk. An express mechanic's lien is acknowledged on above vehicle to secure the amount of repairs thereto. You will not be held responsible for loss or damage to vehicle or articles left in vehicle in case of fire, theft, accident or any other cause beyond your control or for any delays caused by unavailability of parts or delays in shipments by the supplier or transporter. I UNDERSTAND THAT ALL CHARGES ARE DUE WITHIN 30 DAYS FROM BILLING DATE. IF PAYMENT IN FULL IS NOT MADE BY THEN, A RATE OF 1 1/2% PER MONTH (1 1/2% PER ANNUM) ON THE DECLINING UNPAID BALANCE UNTIL PAID IN FULL. I ACKNOWLEDGE RECEIPT OF A COPY OF THIS AGREEMENT.

1. I request an estimate in writing before you begin repairs.  
 2. Please proceed with repairs, but call me before continuing if the price will exceed \$  
 3. I do not want an estimate.  
 Do you want the replaced parts you are entitled to?  Yes  No  
 Payment will be made by:  Cash  Credit Card  Charge  
 This vehicle received without face to face customer contact.

Motor vehicle repair trade practices are regulated by Wis. Adm. Code Chapter Ag 132, administered by the Trade Division, Wis. Department of Agriculture, P.O. Box 8911, Madison, WI 53708-8911.

CUSTOMER SIGNATURE [Signature]  
 SHOP REPRESENTATIVE SIGNATURE [Signature]

\*\*Any warranties on the products sold hereby are those made by the manufacturer. The seller (above named dealership) hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or fitness for a particular purpose, and neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of said products.

YOU ARE ENTITLED TO A PRICE ESTIMATE FOR THE REPAIRS YOU HAVE AUTHORIZED. THE ESTIMATE PRICE MAY BE LESS THAN THE ESTIMATE, BUT WILL NOT EXCEED THE ESTIMATE WITHOUT YOUR PERMISSION. YOUR SIGNATURE WILL INDICATE YOUR ESTIMATE SELECTION.

INTERNAL SUMMARY	FACTORY CLAIMS	AMOUNT
ACCT. CHARGE		
COST		
TOTAL LABOR		57.00
TOTAL PARTS		249.52
GAS, OIL & GREASE		
PAINT & BODY MATERIALS		
SUBLET & TOWING		
SUPPLIES		
SUB TOTAL		306.52
SALES TAX		17.28
TOTAL		323.80

DATE OF ORDER 7-3-01 DELIVERY DATE  
 TIME PROMISED  
 ESTIMATED PRICE \$  
 LABOR CHARGE

WARRANTY IF CHECKED   
 EMISSION CONTROL SERVICE   
 ALIGN FRONT END   
 CHANGE TRANS. FLUID   
 ROTATE TIRES   
 SERVICE AIR CLEANER   
 SERVICE BATTERY   
 CHANGE OIL FILTER   
 CHANGE OIL   
 LUBRICATE

464-5222  
 T72594254

WARRANTY REGISTRATION

T72594254

464-5222

THIELKE

*Donald F. Thielke*  
 DONALD F. THIELKE  
 HCM 968

LIC/PHN

RAY ROLANDER SERVICE 000383  
 5227 W HARTON AVE 655600  
 MILWAUKEE WI 53218 800  
 MC545890 1078547932  
 07/03/01 12:40 376021001 658551  
 HOSE TOTAL  
 325.00

APPROVED 000383

Non Functioning.

PLEASE PRESS HARD WHEN WRITING

VEHICLE MAKE OLIO MODEL MEIKO YEAR 1993 ENGINE SIZE 1.3 C.I. or Liter 36977

STATE WI ZIP 53218 DATE 12 29 77

PHONE 414 464 5222 INVOICE 3009

STATE WI ZIP 53218 DATE 12 29 77

PHONE 414 464 5222

Vehicle Owner's Signature Donald F. Thielke Date 7-3-01

Facility Representative's Signature [Signature] Date

EN ESPAÑOL: PAGINA 2  
 EN FRANÇAIS: PAGE 3

VEHICLE OWNER, RETAIN THIS COPY FOR YOUR RECORDS

PLY #1  
 Form No. 47-1424-2

DESCRIPTION	AMOUNT
TOTAL LABOR	570
TOTAL PARTS	249.52
GAS, OIL & GREASE	
PAINT & BODY MATERIALS	
SUBLET & TOWING	
SUPPLIES	
SUB TOTAL	308.52
SALES TAX	172.3
TOTAL	825.80

"Any warranties on the products sold hereby are those made by the manufacturer. The seller (above named dealership) hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or fitness for a particular purpose, and neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of said products."

YOU ARE ENTITLED TO A PRICE ESTIMATE FOR THE REPAIRS YOU HAVE AUTHORIZED. THE REPAIR PRICE MAY BE LESS THAN THE ESTIMATE, BUT WILL NOT EXCEED THE ESTIMATE WITHOUT YOUR PERMISSION. YOUR SIGNATURE WILL INDICATE YOUR ESTIMATE SELECTION.

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- Please proceed with repairs, but call me before continuing if the price will exceed \$
- I do not want an estimate.

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 Payment will be made by:  Cash  Credit Card  Charge  No  
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I HEREBY AUTHORIZE the above repair work to be done along with necessary materials. You and your employees may operate above vehicle for purposes of testing, inspection or delivery at my risk. An express mechanic's lien is acknowledged on above vehicle to secure the amount of repairs thereto. You will not be held responsible for loss of, fire, theft, accident or any other cause beyond your control or for any delay caused by unavailability of parts or delays in parts shipment by the supplier or transporter. I UNDERSTAND THAT ALL CHARGES ARE DUE WITHIN 30 DAYS FROM BILLING DATE. IF PAYMENT IN FULL IS NOT MADE BY THEN, I HEREBY AGREE TO PAY SIMPLE INTEREST AT THE RATE OF 1 1/2% PER MONTH (1.8% PER ANNUM) ON THE DECLINING UNPAID BALANCE UNTIL PAID IN FULL. I ACKNOWLEDGE RECEIPT OF A COPY OF THIS AGREEMENT.

CUSTOMER SIGNATURE

SHOP REPRESENTATIVE SIGNATURE