

CITY OF MILWAUKEE

03 FEB 11 PM 1:37

RONALD D. LEONHARDT
CITY CLERK

NOTICE OF CLAIM

CITY OF MILWAUKEE
RECEIVED
February 11, 2003
03 FEB 11 PM 3:27
OFFICE OF
CITY ATTORNEY

TO: MILWAUKEE CITY CLERK, MAYOR OF CITY OF MILWAUKEE, AND MILWAUKEE COMMON COUNCIL:

RE: CLAIM OF MARGARET ANN KALT AND GEORGE KALT PURSUANT TO WISCONSIN STATUTES SECTION 893.80.

Please be advised that this office has been retained by Margaret Ann Kalt and George Kalt, who reside at 3395 Kaleta Drive, Eagle River, WI 54521, and hereby gives notice of claim regarding personal injuries and related damage sustained by Margaret Ann Kalt ("Kalt") on April 11, 2001, more fully described below. In addition, Kalt's husband, George Kalt, has sustained damages for loss of society and companionship, and medical expenses.

DATE AND TIME: April 11, 2001, at approximately 8:00 p.m.

LOCATION: 3080 South 53rd Street, Milwaukee, WI 53219.

CIRCUMSTANCES: On April 11, 2001, at approximately 8:00 p.m., Kalt suffered severe injuries upon falling as she walked to her car after visiting her dentist. Kalt's dentist's office was located at 3080 So. 53rd Street, Milwaukee. Her car was parked on South 53rd Street. It was dark and raining heavily as Kalt walked from her dentist's office to her car on the evening of April 11, 2001. She walked from the sidewalk across the area between the sidewalk and the roadway (the "tree border") toward her car. As she walked across the tree border toward the roadway, Kalt stepped into an eroded area bordering the roadway, slid down the eroded area, and struck her left leg on the concrete side of the roadway. Kalt suffered two fractures in her left leg (tibia and fibula). Kalt was transported by ambulance to St. Luke's Hospital, where she remained as an inpatient for the next 4 days.

Attached as Exhibit A are color photocopies of photographs of the accident site. These color photocopies show the eroded area bordering the roadway on South 53rd Street where Kalt suffered her injuries on April 11, 2001.

INJURIES

Attached as Exhibit B is a copy of a November 26, 2001 letter from Kevin Tadych, MD, BC Orthopedic Surgeon, which describes Kalt's injuries. Kalt suffered fractures to her left leg at both the tibia and fibula, which required insertion of a metal rod to secure the fracture. Kalt had a several month recuperation period, which required use of crutches, medication, and physical therapy treatment. Dr. Tadych states that Kalt has suffered a permanent injury as a result of this fall due to the placement of the rod and screws in her left leg.

DAMAGES

Kalt suffered damages as follows:

Medical expenses:		
St. Luke's Medical Center	\$18,251.20	
Eagle River Memorial Hospital	\$ 1,097.91	
Northern Wisconsin Bone & Joint Center	\$ 4,153.00	
Rhineland Regional Medical Group	\$ <u>204.00</u>	
Total Medical Expenses		\$ 23,706.11
Lost Wages (see Wage Loss Verification form, attached as Exhibit C)		\$ <u>10,257.12</u>
Total Special Damages		\$ <u>33,963.23</u>

The total of Kalt's special damages and damages for Kalt's past and future pain, suffering and disability substantially exceed the \$50,000.00 damage limitation applicable to the City.

In addition, the damages sustained by George Kalt for loss of his wife's society and companionship, and for medical expenses exceed \$50,000.00.

LIABILITY

Under *Wis. Stat.* §81.15 the City is responsible for damages resulting from the insufficiency or want of repairs of any streets. This statute has been interpreted to include any defects on the shoulder of the roadway. *Morris v. Juneau County* 218 Wis. 2d 544, 561, 579 N.W.2d 690 (1998). Because Kalt's injuries and damages resulted from defects in the shoulder area of South 53rd Street, the City is liable for these damages pursuant to *Wis. Stat.* §81.15.

DEMAND

Margaret Kalt hereby demands the sum of \$50,000.00 in full settlement of her claim against the City of Milwaukee for her damages resulting from the April 11, 2001 incident described above.

George Kalt also demands the sum of \$50,000.00 in full settlement of his claim against the City of Milwaukee for loss of society and companionship, and medical expenses resulting from the injuries suffered by Margaret Kalt on April 11, 2001.

Dated this 11th day of February, 2003.

LOWE LAW OFFICES, S.C.

Attorneys for Margaret Ann Kalt and George Kalt

By: 

Christopher Lowe

State Bar No: 01009790

P.O. ADDRESS:

Lowe Law Offices, S.C.

11616 W. North Avenue

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Wauwatosa, WI 53226

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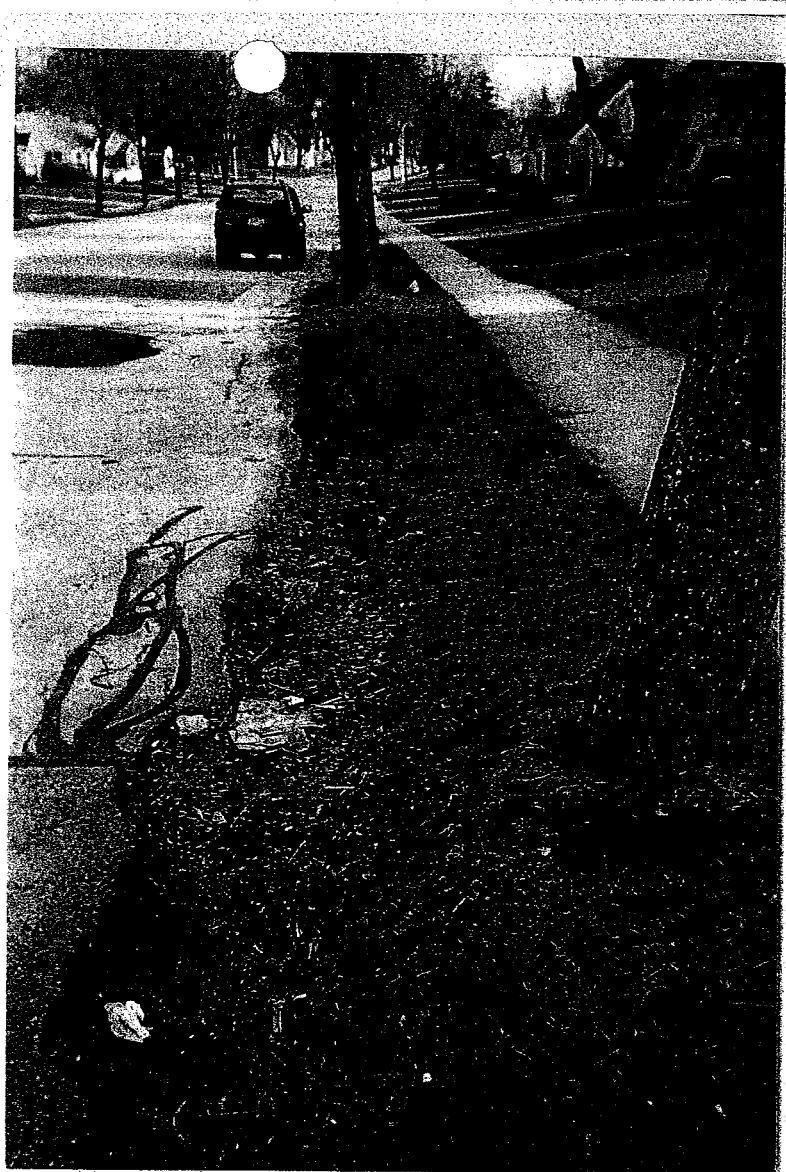
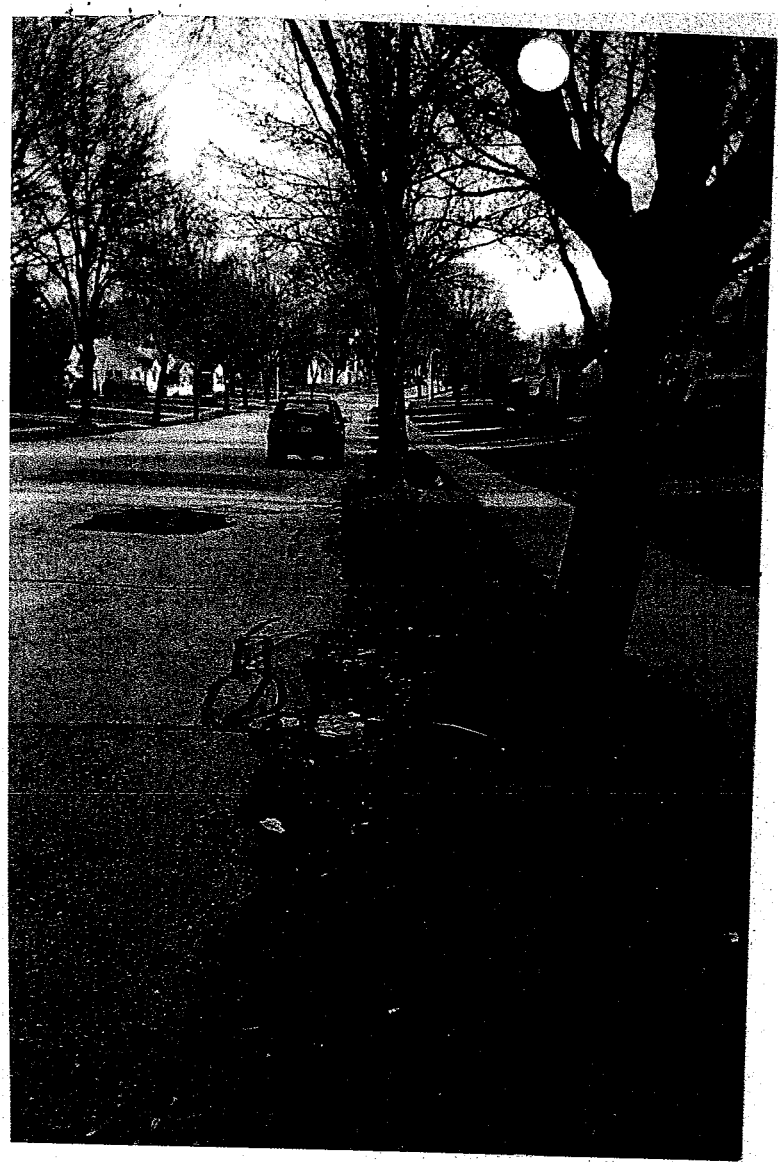


EXHIBIT
A

Kevin L. Tadych, MD, BC
Orthopedic Surgeon
Doris L. Ruder, MS, RN, FNP-C
Nurse Practitioner



7520 Hwy 51 S
Minocqua, Wisconsin 54548
715-358-1911
Toll Free 1-888-444-CURE

Northern Wisconsin
Bone & Joint Center, LTD.

November 26, 2001

Lowe Law Offices
11616 West North Avenue Suite A
Wauwatosa, Wisconsin 53226

Re: Margaret Kalt

Dear Mr. Lowe:

In response to your letter dated October 31, 2001, the following is a summary of my treatment for Margaret Kalt. I first treated Mrs. Kalt on April 30, 2001. At that visit, review of records from St. Luke's Medical Center show that Mrs. Kalt fractured her left tib-fib on April 11, 2001 and had a left ORIF by Dr. Christopher Evanich, Milwaukee. The x-ray taken on April 30, 2001 at Eagle River Memorial Hospital reveal a left tib-fib distal, spiral and fibula comminuted mid shaft fracture with IM rod securing fracture. I advised immobilization with an AFO and rehabilitation therapy with a follow up in one month. At the follow up visit on May 29, 2001, the x-rays revealed no change in alignment and position and early signs of consolidation but the distal screw was backing out. I advised intermittent immobilization, begin full weight bearing, and distal screw removal in one month. Margaret had the screw removal on July 2, 2001 and followed up with me on July 10, 2001. She was advised at that time to start full weight bearing without crutches in 2 weeks. At the August 7, 2001 appointment, Margaret complained of swelling and "not walking right" but stated that things were improving. I advised her to continue physical therapy and follow up if things did not continue to improve. In conclusion, I feel that Margaret has sustained permanent injury in so far as that she sustained a tib-fib fracture with placement of an intramedullary rod and screws which will remain in place unless Mrs. Kalt elects to have them removed. At this point I do not recommend having the rods removed. Although Margaret suffered an initial trauma, she has healed well and I do not anticipate any long term musculoskeletal sequela. I do not foresee future medical treatment being needed unless the patient elects to have the rod removed.

It was a pleasure to meet Mrs. Kalt and to be involved in her care. If I can be of any further assistance, please feel free to contact me. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Kevin Tadych MD".

Kevin Tadych, MD, BC Orthopedic Surgeon

