Milwaukee City Clerk 200 East Well Street Room 205 Milwaukee, WI. 53202 OFFICE OF CITY CLERK'S OFFICE

RE: C.I. File No. 1029-2013-1181

#### NOTICE OF APPEAL

NOW COMES, STEPHEN DYE. herein known as the Appellant by and through himself Pro Se, in the above-reference cause detailed below and state the following facts in support of this Appeal.

#### 1). Nature of Appeal

On July 10, 2013, Appellant received a written communication from the Office of the City Attorney to deny his Claim Docketed as C.I. File No. 1029-2013-1181, citing 2011 Wisconsin Act 132. (See EX.A). 2011 Wisconsin Act 132 (See EX.A2).

- 2) Appellant contends Wisconsin Act 132 is inapplicable to the subject matter that form the basis of his fact-specific complaint that "potholes' were the direct cause of the damage to his vehicle.
- 3) The language in Wisconsin Act 132 <u>does not</u> identify "pot holes" as a condition to relieve the municipalities of its liability to pay the cost of the damage incurred as a direct result of "pot holes".
- 4). Appellant contends the Office of the City Attorney of Milwaukee has abused its authority to implement its will rather than its judgement to misconstrue the plain language set forth in Wisconsin Act 132 to deny his Claim. Snow nor Ice contributed to the damage of his vehicle on March 11, 2013.

5). Appellant respectfully request that the denial of his Claim is without sufficient legal foundation and therefore invalid under current law.

#### CONCLUSION

6). Based upon the above argument, Appellant seek a hearing on the merits of his Claim.

#### **VERIFICATION**

7). Appellant herein state that all the facts herein are true to the best of his knowledge and belief.

Stephen Dye 1927 S.19th Street

1927 S.19th Street Milwaukee, WI. 53204

414-672-8522

cc: file

Channel 12

759 N.19th Street Milwaukee, WI. 53233

ATTN: Jenny



Date of enactment: March 21, 2012

2011 Senate Bill 125 Date of publication\*: April 4, 2012

\* Section 991.11, WISCONSIN STATUTES 2009-10: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

## 2011WISCONSINACT132

AN ACT to repeal 893.83 (title) and 893.83 (2); and to renumber and amend 893.83 (1) of the statutes; relating to: liability of cities, villages, towns, and counties for damages caused by an insufficiency or want of repair of a highway.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 893.83 (title) of the statutes is repealed.

SECTION 2. 893.83 (1) of the statutes is renumbered 893.83 and amended to read: 893.83Damages caused by highway defects accumulation of snow or ice; liability of municipality city, village, town, and county. If damages happen to any person or his or her property by reason of the insufficiency or want of repairs of any highway that any town, city, or village is bound to keep in repair, the person sustaining the damages has a right to recover the damages from the town, city, or village. If the damages happen by reason of the insufficiency or want of repairs of a highway that any county by law or by agreement with any town, city, or village is bound to keep in repair, or that occupies any land owned and controlled by the county, the county is liable for the damages and the claim for damages shall be against the county. If the damages happen by reason of the insufficiency or want of repairs of a bridge erected or maintained at the expense of 2 or more towns, cities, villages, or counties, the action shall be brought against all of the towns, cities, villages, or counties that are liable for the repairs of the bridge. Upon recovery of judgment, the damages and costs shall be paid by the towns, cities, villages, or counties in the proportion in which they are liable for the repairs. The court may direct the judgment to be collected from each town, city, village, or county for its proportion only. The amount recoverable by any person for any damages so sustained shall not exceed \$50,000. The procedures under s. 893.80 shall apply to the commencement of actions brought under this subsection. No action may be maintained against a city, village, town,

or county to recover damages for injuries sustained by reason of an accumulation of snow or ice upon any bridge or highway, unless the accumulation existed for 3 weeks. Any action to recover damages for injuries sustained by reason of an accumulation of snow or ice that has existed for 3 weeks or more upon any bridge or highway is subject to s.

SECTION 3. 893.83 (2) of the statutes is repealed.

893.80.

4E94 009T 0000 050E 2T02

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

1000



53202

POSTAGE

Stephen Dye 1927 s.19th st. Milwaukee, WI. 53204

APR 16 2013

OFFICE OF CITY ATTORNEY

13 APR 12 PM 1: 34 CITY CLERK'S OFFICE

CITY CLERK
ATTN: CLAIMS
200 E. Wells., Room 205
Milwaukee, WI. 53202

#### NOTICE OF CLAIM

NOW COMES, STEPHEN DYE, herein known as the Claiment by and through himself Pro Se, in the above cause detailed below and say the following in support of the Complaint.

#### 1). NATURE OF THE CLAIM

Pursuant to Section 893.80(1), Wis.Stats., Claimant's Complaint has its basis in tort of negligents by the City Dept. of Public Works to provide the specific area on 19th Street between Scott Ave. and Greenfield Ave. a reasonably safe public pavement to accommodate vehicles, which are in full compliance to operate on city public streets.

#### 2). JURISDICTION

The City of Milwaukee agency responsible for street repairs has jurisdiction in this matter s.801.11.

#### FACT ALLEGATIONS

On March 11, 2013, at approximately 3:00p.pm., Claimant drove his vehicle down South 19th Street, upon crossing Scott Ave., going South toward Greenfield Ave., prior to reaching Greenfield Ave., Claimant's vehicle was subjected to a series of severe "pot holes". that caused extreme vibrations to the point of the disc player to skip the music playing and violently shook the body of the vehicle including steering wheel.

4). Upon reaching the stop sign at Greenfield Ave., Claimant made a

left turn in compliance with the law and notice the vehicle drifted to the right and a thumping noise could be heard within the interior coming from the underbody of the vehicle.

- 5). Claimant pulled to the right hand curb when it was safe to do to get out of the vehicle to see if the source of the thumping noise was visible. Claimant was unable to detect anything visibly wrong.
- 6). While driving home (1927 S. 19th St.), the thumping sound continued, as well as, vehicle drifting while turning corners.
- 7). On March 12, 2013, Claimant made an appointment with John Pauls' Dealership for a scheduled oil change, and unrelated mainteance. Hopefully, the 27 point inspection would detect the source of the problems as described in this Complaint.(see ex.#1).
- 8). On March 19, 2013, Claimant returned to John Paul's to replace the SWAY BAR that was discovered to be cracked resulting in the behavior Claimant first experienced on March 11, 2013, driving over the series of "POT HOLES" that initiated this Complaint.(see ex.#2).

#### REMEDY

9). Claimant seek reimbursement in full for the cost to replace the SWAY BAR damaged as a result of the City of Milwaukee negligence in failure to reasonably provide a safe driving road surface in the area at the location described in this Complaint.

#### VERIFICATION

10). Claimant herein state that all facts are true to the best of his knowledge and belief.  $\frac{1}{2}$ 

StepNen Dye 1927 S.19th Street Milwaukee, WI. 53204 414-672-8522

cc: file

巨人士



P.O. BOX 20878 • 3615 S 108th	Street • Greenfield, WI 53228 • (414) 54	15-7000 • Fa:	x (414) 290-7162
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INVOICE NO.

DELIVERY MILES

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PNCS612408 STOCK NO.

## **Certified Service**

WARRANTY PARTS AND LABOR 1 YEAR OR 12,000 MILES

## Thank You

We Appreciate Your **Business** 

\*Ask about after hours pick-up & drop off!

(414) 545-7000

ny warranties on the products sold hereby e those made by the manufacturer. e seller, JOHN PAUL'S AUTOMOTIVE, reby expressly disclaims all warranties, ther expressed or implied, including any plied warranty of merchantability or fitness a particular purpose, and neither assumes rauthorizes any other person to assume for any liability in connection with the sale of said products."

Motor vehicle repair trade 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 8911, Madison, Wisconsin 53708-8911.

PAGE 2 OF 2

CUSTOMER COPY

[ END OF INVOICE ] 12:44pm



P.O. BOX 20878 • 3615 \$ 108th Street • Greenfield, WI 53228 • (414) 545-7000 • Fax (414) 290-7162

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03/12/13

INVOICE DATE

DELIVERY DATE 12/15/00 SELLING DEALER NO.

COLOR **BRONZE** 

INVOICE NO. PNCS612408

DELIVERY MILES

PRODUCTION DATE

## **Certified Service**

WARRANTY PARTS AND LABOR 1 YEAR OR 12,000 MILES

## Thank You

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#### \*Ask about after hours pick-up & drop off!

#### (414) 545-7000

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Motor vehicle repair trade 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 8911, Madison, Wisconsin 53708-8911.



Your Service Consultant: steve buczak

John Paul's Automotive

3615 S 108th St

Greenfield, WI 53228

http://www.johnspaulautomotive.com

## **Certified Service**

**MULTI-POINT VEHICLE INSPECTION** 

Phone: (414) 545-7000	Email: jaygesell@johnpaulsautomotive.com
Customer Name: DYE	VIN: 1G2WP52K21F136778 Date: 03/12/2013
Repair Order #: 612408 Mileage: 155821	Tag #: <u>1221</u>
Checked and OK ! May Require Attent	tion Soon 🚳 Requires Immediate Attention
OnStar active  Star  Enrolled in OVD  Enrolled in DMN	Service History Check  Remaining engine oil life: % Reset:  NA:  Air Conditioning Performance
14-50 %	D TREAD DEPTH . CHECK BATTERY
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Engine oil  Brake fluid reservoir  Transmission (if equipped w/dipstick)  Coolant recovery reservoir	LF RF
Power steering	
	Rear 4 mm or Greater ! 3 mm
Windshield washer  ADDITIONAL CHECKS:	Rear 4 mm or Greater ! 3 mm 2 2 mm or Less  Lowest Front Lining:
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Windshield washer   Inspect for visible leaks   Inspect	Lowest Front Lining: Lowest Rear Lining:
Inspect for visible leaks  Fuel system (also including gas cap seating)  Engine, transmission, drive axle, transfer case  Engine cooling system  Shocks and struts – also check operation  Belts: engine, accessory, serpentine, and/or V-drive	Lowest Front Lining: Lowest Rear Lining:  Brake system (also including lines, hoses and parking brake)  s and visual condition:  Steering components and steering linkage  CV drive axle boots or driveshafts and U-joints  Exhaust system components  Body components lubrication  Restraint system component check

Your Service Technician: BRYON GREENWOOD



#### John Paul's Automotive

3615 S 108th St

Greenfield, WI 53228

http://www.johnspaulautomotive.com

## **Certified Service**

MULTI-POINT VEHICLE INSPECTION

Phone: (414) 545-7000	en e	Email: jaygesell@johnpaulsautomotive.com			
Customer Name: DYE		VIN: 1G2WP52K21I	-136778	_ Date: <u>03/12/</u>	2013
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Your Service Consultant: steve buczak

Your Service Technician: BRYON GREENWOOD

# GREENFIELD PONTIAC-BUICK-GMC 3615 S. 108TH STREET GREENFIELD, WI 53228 (414) 545-7000

#### Sale

Merchant ID: 542929801072489

Term ID: LK176898

12:47:26 Inv #: 000031 J3/12/13 Batch#: Ø00658 ficket: 612408

Entry Method: S DISCOVER

XXXXXXXXXXXX3049

Appr Code: 01220R Seq.#: 0031 201.21 Total:\$

### **APPROVED**

Customer Copy

THANK YOU!



EX #2

P.O. BOX 20878 • 3615 S 108th Street • Greenfield, WI 53228 • (414) 545-7000 • Fax (414) 290-7162

CUSTOMER NO.	ADVISOR TAG NO.		INVOICE NO.
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STEPHEN DYE	384LJV 155,886	BRONZE/	
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RESIDENCE PHONE BUSINESS PHONE	COMMENTS		
414-672-8522			

OTALS:

PARTS DESIGNATED WITH AN ASTERISK (\*) INDICATES LIFETIME GUARANTEE APPLIES FOR CUSTOMER PAY REPAIRS. IF YOU HAVE ANY QUESTIONS REGARDING CERTIFIED SERVICE PLEASE SEE YOUR SERVICE CONSULTANT

TOTAL LABOR.... 166.81
TOTAL PARTS.... 256.61
TOTAL SUBLET... 0.00
TOTAL G.O.G.... 0.00
TOTAL MISC CHG. 8.34
TOTAL MISC DISC -55.17
TOTAL TAX..... 21.09

TOTAL INVOICE \$ 397.68

armin alor

## **Certified Service**

WARRANTY PARTS AND LABOR 1 YEAR OR 12,000 MILES

## Thank You

We Appreciate Your Business

\*Ask about after hours pick-up & drop off!

(414) 545-7000

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Motor vehicle repair trade 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 8911, Madison, Wisconsin 53708-8911.

CUSTOMER SIGNATURE

PAID

MAR 1 9 2013

PAGE 2 OF 2

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[ END OF INVOICE ] 03:19pm



P.O. BOX 20878 • 3615 S 108th Street • Greenfield, WI 53228 • (414) 545-7000 • Fax (414) 290-7162

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							Motor vehicle repair t



INVOICE NO. PNCS612788 stock no.

DELIVERY MILES

PRODUCTION DATE

## Certified Service

WARRANTY PARTS AND LABOR 1 YEAR OR 12,000 MILES

## Thank You

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my warranties on the products sold hereby e those made by the manufacturer. e seller, JOHN PAUL'S AUTOMOTIVE, reby expressly disclaims all warranties. ther expressed or implied, including any plied warranty of merchantability or fitness r a particular purpose, and neither assumes r authorizes any other person to assume for any liability in connection with the sale said products."

otor vehicle repair trade practices are regued 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 8911, Madison, Wisconsin 53708-8911.

GREERT (ELD PONTIAC-BUICK-GAC - 35 S. 108TH STREET GREERT IELD. MI 53228 (414) 545-7000

### Sale

Merchant ID: 542929801072489

Term ID: LK176898

03/19/13 BatchN: 000670 Ticket: 612788 16:11:12 Inv H: 000023

Entry Method: S VISA

XXXXXXXXXXXX4445

4

Seq.#: 0023 Appr Code: 013619 Total:\$ 397.68

#### **APPROVED**

Customer Copy THANK YOU!

April 16, 2013

OF MILL HILL

APR 19 2013

OFFICE OF CITY ATTORNEY

2013 APR 19 A!

TOTAL CLERKY TOTAL

CITY CLERK
ATTN: CLAIMS
200 E. Wells., Room 205
Milwaukee, WI. 53202

Re: PHOTO EVIDENCE IN SUPPORT OF CLAIMS.

On April 12, 2013, I personally submitted a Claim directly to you with regard to damage caused to my vehicle (broken sway bar) by "pot holes" located on 19th Street between Scott St. and Greenfield Ave. It is my request that the photos be attached to my original Complaint and given the consideration it deserves as amended evidence. Due to the recent filing, I have not received a case reference number.

Thank you for your time inclusion of the enclosed material in this matter.

Stephen Dye

1927 S. 19th Street

Milwaukee, Wi. 53204

414-672-8522

SD/file























































