

# FAX

PAGES

**TITLE** |

**FROM** |

Renee' Gitzlaff, Litigation Paralegal  
414-272-6659  
Gendlin, Liverman & Rymer, S.C. Test

**TO** |

City of Milwaukee  
1-414-286-8550

**COMMENT** |

**GENDLIN, LIVERMAN & RYMER, S.C.**

10335 W. OKLAHOMA AVE., STE. 300  
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ATTORNEYS

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The National Board of Trial Advocacy

April 11, 2024

City of Milwaukee  
Tearman Spencer & Patricia Klosiewski  
Via Facsimile, 414-286-8550

Re: Our Client: Derrick Graham  
D/Incident: May 19, 2023  
C.I. File No.: 1061-2023-1107

Dear Mr. Spencer & Ms. Klosiewski:

On April 8, 2024, I received your letter dated March 20, 2024 in where you were denying Mr. Graham's claim. Note, I would request an "appeal" of your decision as I took issue with the credibility of the basis for denial.

First, you claim that Mr. Graham "was illegally parked in a construction zone". Mr. Graham was stopped at the curb on the right-hand edge of the roadway when struck by the fire truck. Mr. Graham's stopped vehicle position was consistent with the requirement of a driver's duty when approached by an emergency vehicle (See WI. Stats §346.19(1) "shall yield the right-of-way and shall immediately drive such vehicle to a position as near as possible and parallel to the right curb or the right-hand edge of the shoulder of the roadway, clear of any intersection". That is why the police investigating the collision found that Mr. Graham was "legally parked" and had "no contributing action" (see police report p. 4-5).

Second, you claim the "fire department acted within the scope of their responsibility" and the "action taken in this matter was necessary and appropriate for the circumstances". Wisconsin law does not release fire truck drivers from liability when they strike legally parked vehicles. The opposite is true. The law "does NOT relieve the operator of an authorized emergency vehicle from the duty to drive with due regard under the circumstances for the safety of all persons using the highway." WI. Stats §346.19(2).

There was plenty of room for fire truck to avoid striking Mr. Graham or at the very least, give audible signal to request that he move. Instead, the driver negligently assumed he could make the turn and admittedly struck Mr. Graham.

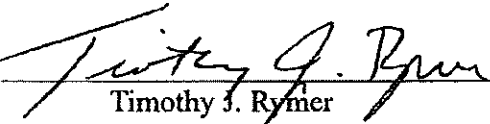
Third, you claim that there were "no injuries". As is quite common after a collision, a person's adrenaline can mask any immediate notice of injury, especially if struck by a fire truck. Mr. Graham reasonably went to the emergency room a couple of hours later where his injuries were documented.

For the forgoing reasons, I kindly request that Mr. Graham's claim be reevaluated.

Thank you for your anticipated cooperation. I look forward to hearing from you.

Very truly yours,

GENDLIN, LIVERMAN & RYMER, S.C.

By:   
Timothy J. Rymer

TJR/to

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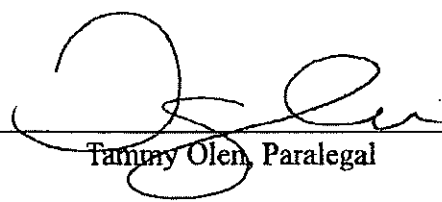
**AFFIDAVIT OF MAILING**

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I certify that on April 11, 2024, a copy of the foregoing document was sent upon the below listed recipients by:

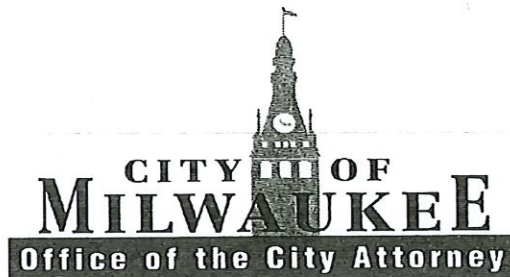
- Personal Delivery
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- Via Facsimile to:
- E-mail Transmission to:

**Address of recipient**  
 City of Milwaukee  
 Tearman Spencer & Patricia Klosiewski  
 Via Facsimile, 414-286-8550

  
 \_\_\_\_\_  
 Tammy Olen, Paralegal

**TEARMAN SPENCER**  
City Attorney

**ROBIN A. PEDERSON**  
**S. TODD FARRIS**  
**JENNIFER L. WILLIAMS**  
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**CYNTHIA HARRIS ORTEGA**  
Assistant City Attorneys

March 20, 2024

*mailed*  
*4.3.2024*

Attorney Timothy Rymer  
Gendlin, Liverman, & Rymer, S.C.  
10335 W. Oklahoma Ave., Suite 300  
Milwaukee, WI 53227

RE: Communication from Attorney Timothy Rymer on behalf of  
Derrick Graham  
C.I. File No. 1061-2023-1107

Dear Attorney Rymer:

We have received your claim for the amount of \$54,000.00 in relation to injuries your client, Derrick Graham allegedly sustained on May 19, 2024, when a City of Milwaukee Fire Engine made contact with your client's parked vehicle in the area of West State Street and North 26<sup>th</sup> Street.

Our investigation determined the Milwaukee Fire Department (MFD) was responding to an emergency with lights and sirens activated on May 19, 2023, in the area of West State Street and North 26<sup>th</sup> Street. In order to reach the victim, the fire truck driver slowed down to make a turn onto a construction site and made contact with Mr. Graham's illegally parked vehicle, breaking its tail light. The MFD driver reported he was traveling one to five mph, and there were no injuries and no other damages.

It is our position that the fire department acted within the scope of their responsibility, and the action taken in this matter was necessary and appropriate for the circumstances in this case. In addition, your client was illegally parked in a construction zone. As such, the City of Milwaukee cannot accept liability in this case and we are denying your claim.

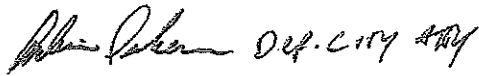
A rectangular stamp with the word "COPY" in a bold, sans-serif font.



Attorney Timothy Rymer  
Gendlin, Liverman, & Rymer, S.C.  
March 20, 2024  
Page Two

If you wish to appeal this decision, you may do so by sending a letter within 21 days of receipt of this letter to the Milwaukee City Clerk, 200 East Wells Street, Room 205, Milwaukee, Wisconsin 53202, requesting a hearing.

Very truly yours,

Handwritten signature of Teerman Spencer, City Attorney, with the text "Def. City Atty" written below it.

TEARMAN SPENCER  
City Attorney

Handwritten signature of Patricia Klosiewski, Investigator Adjuster.

PATRICIA KLOSIEWSKI  
Investigator Adjuster

PK/cdr

1061-2023-1107/290326