

YOST & BAIL
ATTORNEYS AT LAW

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A Professional Limited Liability Partnership

March 23, 2010

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

CITY OF MILWAUKEE
2010 MAR 24 AM 10:31
RONALD D. LEONHARDT
CITY CLERK

RE: **Secura Insurance Companies v. City of Milwaukee**
Milwaukee County Case No:
Our File No: 8022W-0315
CI File No: 09-S-308

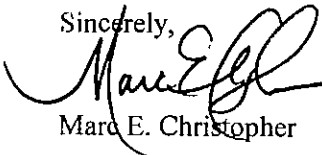
Dear Sir/Madam:

I write as an attorney for Secura Insurance Companies to request with regard to the above-mentioned matter to appeal the decision rendered by the City Attorney and request a hearing on this matter.

This dispute stems from damage incurred in a city parking area from our insured's vehicle. The vehicle was damaged from falling debris in the designed city employee parking area. According to our insured, when damage occurred his vehicle was in a location he was instructed to park, and to which he was required to obtain a permit. In addition it appears the City was aware of the falling debris from the viaduct, a serious safety hazard, yet still requested its employees to park in this location. We received the City of Milwaukee's denial letter on March 9, 2010. **We therefore appeal this decision and request a hearing.**

As attorney for Secura and their insured, Randy Michalzik, please direct any attention to my office. I thank you in advance for your prompt attention to this matter.

Sincerely,



Marc E. Christopher

Enclosure

Yost & Bail, LLP

2300 North Mayfair Road • Suite 745 • Milwaukee, WI 53226
Telephone (414) 259-0600 • Fax/Data (414) 259-0610 • www.yostbail.com

OFFICES IN MINNESOTA AND WISCONSIN

GRANT F. LANGLEY
City Attorney

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LINDA ULISS BURKE
VINCENT D. MOSCHELLA
Deputy City Attorneys



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BRUCE D SCHRIMPF
SUSAN D. BICKERT
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THOMAS J. BEAMISH
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JARELY M. RUIZ
ROBIN A. PEDERSON
DANIELLE M. BERGNER
Assistant City Attorneys

February 16, 2010

Secura Insurance Companies
Attn: Jodi Schumacher, Subrogation Representative
P.O. Box 819
Appleton, WI 54912-0819

RE: C.I File No.: 09-S-308
Your Insured. Randy Michalzik
Your Claim No P0088314

Dear Ms Schumacher:

We have received your claim in the amount of \$855 34, relating to your interests and the interests of your insured arising from an August 5, 2009 loss when your insured's vehicle was damaged from falling debris while it was parked under the 16th Street viaduct, Milwaukee, WI.

Our investigation reveals that the Infrastructure Services Division indicates that at one time the viaduct spanned several railroad lines and it was subject to corrosive exhaust gasses from the locomotives. Structural steel above the rail lines was protected with a cement-based coating. Department of Public Works crews remove any apparent loose concrete under this viaduct once or twice per year. In addition, netting was placed below some of the bays where the protective coating was applied. These bays do have signs allowing parking for City employees only. These signs were put up due to patrons of a nearby casino parking in these spots. The City employees that park in these spots do so at their own risk. As such, the City cannot accept liability and we are denying your claim.

OFFICE OF THE CITY ATTORNEY

Milwaukee City Hall Suite 800 • 200 East Wells Street • Milwaukee, Wisconsin 53202 3551 • Telephone 414 288 2600

03/09/2010 07:50 AM

EB3A9 1004

Secura Insurance Companies
February 16, 2010
Page 2

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,



GRANT E. LANGLEY
City Attorney



ROBERT OVERHOLT
Investigator Adjuster

RMO:ms
1047-2009-2256

03/09/2010 07:50 AM
FR3A9 1004

RONALD D. LEWIS
CITY CLERK
2009 AUG 14 AM 11:40
CITY OF MILWAUKEE

August 11, 2009

CITY CLERK
ATTN CLAIMS
200 EAST WELLS STREET ROOM 205
MILWAUKEE WI 53202-3567

RE: Claim: P0088314
Insured: Randy Michalzik
Claimant: City of Milwaukee
Date of Loss: 08/05/2009

Dear Sir/Madam:

Enclosed please find our notice of claim and itemized statement of claim. We are making a claim against the City of Milwaukee for damages that were done to our insured's vehicle. Our insured indicated that a parking ramp area used for parking at his place of employment has been deteriorating. On the above mentioned date, multiple pieces of the parking ramp crumbled and landed on his vehicle causing damage to the front end area. Our insured went to his vehicle the day in question and found debris laying on and near the front of his vehicle.

Pursuant to Wisconsin statutes, please notify us in the event the claim is disallowed.

Sincerely,



Jodi Schumacher
Subrogation Representative
920.739.3161 Ext 4606

OFFICE OF
CITY ATTORNEY
2009 AUG 14 PM 2:08
CITY OF MILWAUKEE
RECEIVED

NOTICE OF CLAIM

Please be advised the SECURA Insurance Company hereby makes claim against you in the amount of \$Eight Hundred Fifty-Five and 34/100 for damage to a 2008 Nissan Altima. This company's insured personal property, owned by Randy Michalzik, was damaged by the negligence of The City of Milwaukee by collapse of a city parking ramp.

Attached is a copy of the police report or other document which describes the nature of this loss in detail.

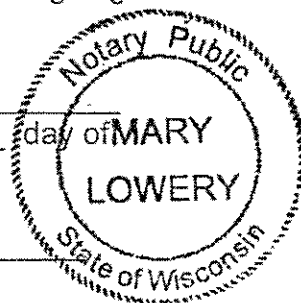
SECURA Insurance has coverage on the property in questions which affords subrogated rights

Jodi Schumacher
Jod Schumacher

State of Wisconsin)
)
Outagamie County)

Jodi Schumacher, being first duly sworn, certifies that she is a Subrogation Representative employed by SECURA Insurance Company, that she has read the foregoing Notice of Claim, and that the information contained in the foregoing notice of claim is true and correct.

Mary Lowery
Subscribed and sworn to me this 12 day of MARY
August 2009.
My commission expires
June 19, 2011



08/07/2009 at 01:03 PM
100407

P0088314
25h300e4

SECURA INSURANCE COMPANY
Secura Insurance Company
P.O. Box 819
Appleton, WI 54912
(800)318-2136x4316 Fax: (800)318-2209



ESTIMATE OF RECORD

Written By: Greg Smith 08/07/2009 01:00 PM
Adjuster: Greg Smith

Insured: RANDY MICHALZIK Claim #P0088314
Owner: RANDY MICHALZIK Policy #
Address: 1522 E TRIPOLI AVE Date of Loss: 08/05/2009
MILWAUKEE, WI 53207 Type of Loss: Comprehensive
Cellular: (414)286-5959 Point of Impact: 12. Front
Day: (414)483-7783

Inspect Location: NON_DRIVE_IN

Repair Facility: QUALITY AUTO BODY Business: (414)481-7576
Days to Repair
License #

2008 NISS ALTIMA S 4-2.5L-FI 2D CPE GREY Int:
VIN: 1N4AL24E58C265826 Lic: 986NKT WI Prod Date: Odometer:
Air Conditioning Rear Defogger Tilt Wheel
Cruise Control Telescopic Wheel Intermittent Wipers
Keyless Entry Body Side Moldings Dual Mirrors
Console/Storage Overhead Console Clear Coat Paint
Metallic Paint Power Steering Power Brakes
Power Windows Power Locks Power Mirrors
Power Trunk/Tailgate AM Radio FM Radio
Stereo Search/Seek CD Player
Anti-Lock Brakes (4) Driver Air Bag Passenger Air Bag
Head/Curtain Air Bags Front Side Impact Air Bag 4 Wheel Disc Brakes
Cloth Seats Bucket Seats Automatic Transmission
Overdrive Full Wheel Covers

NO.	OP.	DESCRIPTION	QTY	EXT. PRICE	LABOR	PAINT
1		FRONT LAMPS				
2	Repl	LT Headlamp assy	1	286.38	0.3	
3		Aim headlamps			0.5	
4		HOOD				
5*	Rpr	Hood			1.5	2.6
6		Add for Clear Coat				1.0
7#		Car Cover	1	5.00		
8#		Hazardous Waste Disposal	1	3.00		
9		FRONT BUMPER				
10	R&I	R&I bumper cover			1.8	

08/07/2009 at 01:03 PM
100407

P0088314
25h300e4

ESTIMATE OF RECORD
2008 NISS ALTIMA S 4-2.5L-FI 2D CPE GREY Int:

NO.	OP.	DESCRIPTION	QTY	EXT.	PRICE	LABOR	PAINT
		Subtotals ==>			294.38	4.1	3.6
		Parts					294.38
		Body Labor	4.1	hrs @	\$ 52.00/hr		213.20
		Paint Labor	3.6	hrs @	\$ 52.00/hr		187.20
		Paint Supplies	3.6	hrs @	\$ 32.00/hr		115.20
		SUBTOTAL					\$ 809.98
		Sales Tax			\$ 809.98 @	5.6000%	45.36
		TOTAL COST OF REPAIRS					\$ 855.34
		ADJUSTMENTS:					
		Deductible					500.00
		TOTAL ADJUSTMENTS					\$ 500.00
		NET COST OF REPAIRS					\$ 855.34

NO SUPPLEMENTS WITHOUT PRIOR AUTHORIZATION

MOTOR VEHICLE REPAIR 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.

CHECK DETAIL SCREEN

LH0099A

P0088314 ASC PB WI 033 RANDY A MICHALZIK

DOL 08/05/2009

Entered By	GREG SMITH	Adjuster	G SMITH
Check Amount	\$355.34	Date	08/07/2009
Coverage	COMPREHENSIVE		
Check #	0001445115	Status	OPEN
			08/07/2009

Pay to RANDY MICHALZIK AND QUALITY AUTO BODY

Mail to RANDY MICHALZIK
1522 E TRIPOLI AVE

MILWAUKEE WI 53207

Comments

REPRESENTS PAYMENT FOR REPAIRS TO YOUR 2008 NISSAN ALTIMA S
LESS YOUR \$500 COMPREHENSIVE DEDUCTIBLE. A COPY OF THE
ESTIMATE IS ENCLOSED FOR YOUR RECORDS. THANK YOU.

Approved X

F1=Help F3=Exit F12=Cancel
SF10=Financial Screen 3

