

O'MELIA, SCHIEK & McELDOWNEY, S.C.

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Donald C. O'Melia 1917-1991
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November 15, 2011

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

RE: Ryan McEldowney – Our File #17592
CI File No. 11-S-188

To Whom It May Concern

Enclosed herewith is a November 7, 2011 letter we received from Grant Langley, City Attorney, and Steven Carini, Investigator Adjuster, regarding the above-named case. We wish to appeal this decision and are requesting a hearing.

Very truly yours,

O'MELIA, SCHIEK & McELDOWNEY, S.C.

Todd R. McEldowney

Todd R. McEldowney
State Bar #1009874

TRM/jd
Enclosure

cc: Ryan McEldowney

CITY OF MILWAUKEE
2011 NOV 17 AM 11:5
RENEALB B. LECHE
CITY CLERK

CITY OF MILWAUKEE
RECEIVED
2011 NOV 18 PM 3:29
OFFICE OF
CITY ATTORNEY

FACSIMILE COVER SHEET

O'MELIA, SCHIEK & McELDOWNEY, S.C.
Attorneys at Law

4 South Stevens Street
Rhineland, WI 54501
Phone: (715) 369-2456
Fax: (715) 369-1126

TO: Milwaukee City Clerk
ATTN: Claims

FROM: Todd McEldowney

DATE: July 5, 2011

FAX NUMBER: (414) 286-3456

CITY OF MILWAUKEE
2011 JUL -6 AM 8:06
RONALD D. LEONHARDT
CITY CLERK

This is page 1 of a 5 page transmission.

COMMENTS: Please confirm that you received this facsimile. Also, please call if you have any questions or concerns. Thank you.

If you have any difficulty receiving this fax, please call our office at (715) 369-2456.

CITY OF MILWAUKEE
RECEIVED
2011 JUL -6 PM 3:06
OFFICE OF
CITY ATTORNEY

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July 5, 2011

Mr. Ronald D. Leonhardt
City Clerk, ATTN: Claims
200 E. Wells Street, Room 205
Milwaukee, WI 53202-3567

RE: Notice of Claim for Ryan McEldowney

Dear Mr. Leonhardt:

Enclosed herewith please find a Notice of Claim and of Relief Sought against the City of Milwaukee, pursuant to Wis. Stat. § 893.80(1). If you have any questions or concerns, please give me a call. I look forward to your prompt response.

Thank you.

Very truly yours,

O'MELIA, SCHIEK & McELDOWNEY, S.C.


Todd R. McEldowney
Wisconsin State Bar No.: 1009874TRM/af
cc w/encl.: Mr. Ryan McEldowney

NOTICE OF CLAIM AND OF RELIEF SOUGHT

TO: City of Milwaukee, a Municipal Corporation
ATTENTION: Ronald D. Leonhardt, City Clerk
200 E. Wells Street, Room 205
Milwaukee, WI 53202-3567

PLEASE TAKE NOTICE that the undersigned attorneys appear for and on behalf of Ryan McEldowney, residing at 514 Shepard Terrace, Apartment 4a, Madison, Wisconsin 53705, and do hereby give specific notice that this is a claim against the City of Milwaukee, a Municipal Corporation, pursuant to Wis. Stat. § 893.80(1).

PLEASE TAKE FURTHER NOTICE that on March 11, 2011, at approximately 12:30 p.m., Ryan McEldowney was proceeding to his home in Madison, Wisconsin from his place of employment at 2733 West Euclid Avenue located in Milwaukee, Wisconsin. At that time, there was a large, deep pothole in the right west-bound lane of Oklahoma Avenue. There were no cones, flags, signs, or any other markers to warn about the pothole. Ryan was travelling in the right west-bound lane of Oklahoma Avenue, below the posted speed limit. He was at the top of a hill, near the intersection of Oklahoma Avenue and 60th Street, when he noticed emergency vehicles on the right shoulder. Ryan proceeded to signal and move into the left lane, and as he did this he travelled through the pothole in the right lane. After hitting the pothole, the oil pan in Ryan's vehicle broke immediately, and his engine shut off. Ryan was able to coast to the bottom of the hill and pull over to seek assistance from Moe's Automotive Service.

PLEASE TAKE FURTHER NOTICE that Ryan's vehicle sustained significant damage, including a broken oil pan and timing belt, both of which needed to be replaced. The servicemen at Moe's determined that Ryan sustained \$737.45 worth of damage to his vehicle. Because Ryan paid cash for the repairs, Moe's gave him a \$200 discount, thereby mitigating his damage. The

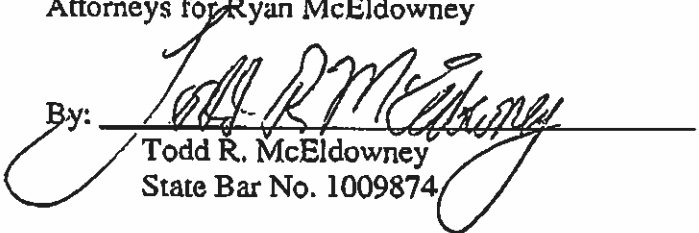
total amount Ryan paid to repair the pothole damage was \$537.45. A copy of the repair invoice is attached. The owner of Moe's Automotive Service also informed Ryan that two other people came into his shop that same day because of damage caused by the same pothole.

PLEASE TAKE FUTHER NOTICE that the damage to Ryan McEldowney's vehicle occurred as a result of the negligence of the City of Milwaukee in that Ryan's vehicle was damaged because of the large pothole in Oklahoma Avenue, and that agents and employees of the City of Milwaukee negligently failed to repair Oklahoma Avenue (a highway which the City of Milwaukee is bound to keep in repair). Therefore, Ryan is entitled to recover damages from the City of Milwaukee in the amount of \$537.45, pursuant to Wis. Stat. §893.83(1).

Dated this 5th day of July, 2011.

O'MELIA, SCHIEK & McELDOWNEY, S.C.
Attorneys for Ryan McEldowney

By: _____


Todd R. McEldowney
State Bar No. 1009874

Mailing Address:
4 S. Stevens Street
Rhineland, WI 54501
(715) 369-2456

Moe's Auyomotive Service Llc.

5912 W. Oklahoma Ave.

Milwaukee, wi 53214

414-793-2614

Invoice #1000

03/11/2011

Any Additional Information Up To 50 Characters

Ryan Mceldowney

514 Shepard Ter 4a

Madison WI 53705

(715) 891-2054 (414) _____ (414) _____

1995 FORD ESCORT FWD

116 1.9L SEQUENTIAL ELECTRONIC FI

Tag:

Mileage 95,898

ID: 1FASP15J7SW332521

Labor

DIAGNOSE NO START CONDITION
R & R TIMING BELT
R & R OIL PAN OR GASKET
R & R SWAY BAR LINKS

Amount
\$49.95
\$186.00
\$210.00
\$45.00
\$490.95

Part No.

Parts

Quantity

Each

<u>Part No.</u>	<u>Parts</u>	<u>Quantity</u>	<u>Each</u>	
164.365	TIMING BELT	1.00	\$44.97	\$44.97
	5W30 MOTOR OIL	4.50	\$3.49	\$15.71
used A-D	OIL PAN	1.00		\$100.00
K9231	SWAY BAR LINKS	2.00	\$21.36	\$42.72
	GASKET SEALER	1.00		\$3.99
				<u>\$207.39</u>

Subtotal \$698.34
Tax \$39.11
Total \$737.45

Discount 200.00
paid cash
\$537.45

An express mechanics lien is acknowledged on the above vehicle to secure the amount of repairs thereto, until such time as cash payment has been made in full. It is understood that you will not be held responsible for loss or damage to cars or articles left in cars in case of fire, theft or any other cause beyond your control. Upon signing this repair order it is accepted as a complete and comprehensive description of the repair work done on this vehicle.

DATE _____

SIGNED _____