

November 13th 2010

CITY OF MILWAUKEE
RECEIVED

NOV 15 PM 2:11

OFFICE OF
CITY ATTORNEY

To: Milwaukee City Clerk
200 East Well Street
Room 205
Milwaukee WI 53202

From: Leonel Ortiz
707 South 23rd Street
Milwaukee WI 53204

RE: Leonel Ortiz
C.I. File No.: 10-V-137

I am requesting a hearing to to appeal your decision in this case.
I am also requesting the presence of a Spanish interpretor at the appeal hearing.

Thank You,



Leonel Ortiz

CITY OF MILWAUKEE
10 NOV 15 AM 9:57
RONALD D. LEONHARDT
CITY CLERK

October 8, 2010

CITY OF MILWAUKEE
RECEIVED

2010 OCT 11 PM 2:50

City of Milwaukee

City Clerk

205 E. Wells St.

Milwaukee, WI 53202

OFFICE OF
CITY ATTORNEY

CITY OF MILWAUKEE
10 OCT -8 PM 3:13
RONALD D. LEONHARDT
CITY CLERK

To whom it may concern:

I am writing to you regarding a traffic accident in which I was involved in the city of Milwaukee on April 12, 2010 (Agency Accident Number 101022064).

In connection with the traffic accident I went to a Wisconsin Department of Transportation hearing in Madison on August 30, 2010 (Case number SR145570). I am including a copy of the decision from the hearing issued on September 15, 2010.

Based on the decision of the hearing that found the other party in the accident, Gregory K. Sousek, more negligent, I would like to make a claim to the city of Milwaukee for damages to my vehicle suffered in the aforementioned accident of April 12. **I am claiming \$3,572.37 to repair my vehicle.** The estimate of repair costs from Tender Care Auto Body is included with this letter. I am only claiming vehicle repair costs, and not the additional associated costs of work loss, time investment, and medical expenses.

Thank you for your consideration. Please contact me at 414-491-3686 if you have any questions. My address is 707 S. 23rd St. Milwaukee, WI 53204.

Sincerely,

Mr. Leonel Ortiz

LENDER CAR AUTO BODY
1825 S KINNICKINNIC AVE, MILWAUKEE, WI. 53204
1381 S 59TH ST. WEST ALLIS, WI. 53214
6030 W. GREENFIELD AVE. WEST ALLIS, WI. 53214
PH. 414-389-1014 PH. 414-474-5620 PH. 414-778-1206

*** PRELIMINARY ESTIMATE ***

08/09/2010 02:07 PM

Owner

Owner: Leonel Ortiz
Address: 707 s 33rd
City State Zip: Milwaukee, WI 53204

Work/Day: (414)491-3686
FAX:

Inspection

Inspection Date: 08/09/2010 02:07 PM

Inspection Type:

Vehicle

1996 Mercury Mystique GS 4 DR Sedan
4cyl Gasoline 2.0
5 Speed Manual

Veh Insp# :
Condition:
Ext. Refinish: Two-Stage

Mileage Type: Actual
Code: R1743A
Int. Refinish:

Options

AM/FM Stereo
Intermittent Wipers
Power Steering
Tilt Steering Wheel

Center Console
Power Brakes
Rem Trunk-L/Gate Release
Tinted Glass

Dual Airbags
Power Mirrors
Tachometer
Velour/Cloth Seats

Damages

| Line | Op | Guide | MC | Description | MFR.Part No. | Price | ADJ% | B% | Hours | R |
|------|----|-------|----|---------------------------|---------------------|-----------|------|----|-------|-----|
| 1 | E | 6 | 02 | Cover,Front Bumper | F5RY17757A | \$267.00* | | | 0.9 | SM |
| 2 | L | 6 | 13 | Cover,Front Bumper | Refinish | | | | 3.7 | RF |
| | | | | | 2.6 Surface | | | | | |
| | | | | | 0.6 Two-stage setup | | | | | |
| | | | | | 0.5 Two-stage | | | | | |
| 3 | E | 40 | 02 | Filler,Front Bumper | F5RY8419A | \$254.00* | | | 0.3 | SM |
| 4 | E | 41 | 02 | Headlamp Assy,Halogen LT | F5RY13007B | \$100.00* | | | INC | SM |
| 5 | E | 52 | 02 | Panel,Headlamp Mtg | F5RY13100A | \$166.28 | | | 2.4 | SM |
| 6 | E | 55 | 02 | Lamp,Side Marker LT | F5RY13201A | \$68.00* | | | INC | SM |
| 7 | E | 103 | 02 | Fender,Front LT | F5RY16006A | \$125.65* | | | 2.0 | SM |
| 8 | L | 103 | | Fender,Front LT | Refinish | | | | 3.3 | RF |
| | | | | | 2.3 Surface | | | | | |
| | | | | | 0.5 Edge | | | | | |
| | | | | | 0.5 Two-stage | | | | | |
| 9 | N | 974 | | Suspension Align,Frt | Additional Labor | | | | 1.0 | ME |
| 10 | E | 651 | 02 | Shaft Assembly,Axle L/F | F8RZ3B437AB | \$200.00* | | | 1.7 | ME |
| 11 | E | 706 | 02 | Gear Assy,Steering | F7RZ3L547AA | \$350.00* | | | 3.3 | ME |
| 12 | I | 207 | | Door Shell,Front LT | Repair | | | | 3.9* | SM |
| 13 | L | 207 | | Door Shell,Front LT | Refinish | | | | 2.3 | RF |
| | | | | | 1.9 Surface | | | | | |
| | | | | | 0.4 Two-stage | | | | | |
| 14 | I | | | frame work on left fender | Repair | | | | 2.0* | SM* |
| 14 | | Items | | | | | | | | |

MC

Message

02 PART NO. DISCONTINUED, CALL DEALER FOR EXACT PART NO.
13 INCLUDES 0.6 HOURS FIRST PANEL TWO-STAGE ALLOWANCE

Estimate Total & Entries

| | | | | | |
|-------------------------|---------|-------------|------------|------------|------------|
| Gross Parts | | | | \$1,530.93 | |
| Paint Materials | | | | \$260.40 | |
| Parts & Material Total | | | | | \$1,791.33 |
| Tax on Parts & Material | | @ 5.600% | | | \$100.31 |
| Labor | Rate | Replace Hrs | Repair Hrs | Total Hrs | |
| Sheet Metal (SM) | \$52.00 | 5.6 | 5.9 | 11.5 | \$598.00 |
| Mech/Elec (ME) | \$85.00 | 5.0 | 1.0 | 6.0 | \$510.00 |
| Frame (FR) | \$52.00 | | | | |
| Refinish (RF) | \$52.00 | 9.3 | | 9.3 | \$483.60 |
| Paint Materials | \$28.00 | | | | |
| Labor Total | | | | 26.8 Hours | \$1,591.60 |
| Tax on Labor | | @ 5.600% | | | \$89.13 |
| Gross Total | | | | | \$3,572.37 |
| Net Total | | | | | \$3,572.37 |

Audatex Estimating 6.0.353 ES 09/02/2010 11:07 AM REL 6.0.353 DT 07/01/2010
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2.0 HRS WERE ADDED TO THIS ESTIMATE BASED ON AUDATEX'S TWO-STAGE REFINISH FORMULA.

THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF ONE OR MORE REPLACEMENT PARTS SUPPLIED BY A SOURCE OTHER THAN THE MANUFACTURER OF YOUR MOTOR VEHICLE. WARRANTIES APPLICABLE TO THESE REPLACEMENT PARTS ARE PROVIDED BY THE MANUFACTURER OR DISTRIBUTOR OF THE REPLACEMENT PARTS RATHER THAN BY THE MANUFACTURER OF YOUR MOTOR VEHICLE.

Op Codes

| | | |
|----------------------------|--------------------------------|----------------------------|
| * = User-Entered Value | E = Replace OEM | NG = Replace NAGS |
| EC = Replace Economy | OE = Replace PXN OE Srpls | UE = Replace OE Surplus |
| ET = Partial Replace Labor | EP = Replace PXN | EU = Replace Recycled |
| TE = Partial Replace Price | PM = Replace PXN Reman/Rebit | UM = Replace Reman/Rebuilt |
| L = Refinish | PC = Replace PXN Reconditioned | UC = Replace Reconditioned |
| TT = Two-Tone | SB = Sublet Repair | N = Additional Labor |
| BR = Blend Refinish | I = Repair | IT = Partial Repair |
| CG = Chipguard | RI = R & I Assembly | P = Check |
| AA = Appearance Allowance | RP = Related Prior Damage | |



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Division of Motor Vehicles
Driver Information Section
PO Box 7983
Madison, WI 53707-7983

Internet: www.dot.wisconsin.gov

Teletypewriter (TTY): 608-266-0824

Facsimile (FAX): 608-267-0606

E-mail: dotuninsuredmotorist@dot.wi.gov

September 15, 2010

LEONEL ORTIZ
707 S 23 ST
MILWAUKEE WI 53204

TELEPHONE:
(608) 266-1249
File No: SR-145570

We are enclosing a copy of the Decision rendered as a result of your Safety Responsibility hearing before the Administrative Hearing Examiner, Department of Transportation.

If the decision sets a scheduled suspension date, the suspension order will be issued unless you meet one of the Safety Responsibility compliance requirements prior to the suspension date. There can be no extensions on this time.

The compliance requirements are (1) File releases or installment agreements signed by the persons named in the decision who verified damages or injuries; or (2) Deposit security in the amount indicated in the decision. Your certified check or money order should be payable to Registration Fee Trust.

Notice of Appeal Rights

Set out below are the alternative methods by which a person may request review of the above final decision. This notice is provided pursuant to Wis. Stats. s. 227.48(2).

Any person aggrieved by this decision may petition for rehearing as provided in Wis. Stats. 227.49. A petition for rehearing must be filed with the Department of Transportation, Uninsured Motorist Hearing Unit within 20 days after service of this decision. The petition must specify in detail the grounds for relief sought and supporting authorities. Rehearing may only be granted for the reasons set out in Wis. Stats. s. 227.49(3). A petition for rehearing is not a prerequisite to judicial review under Wis. Stats. ss. 227.52 and 227.53. A request for rehearing will not delay or stop a suspension order.

Any person aggrieved by this decision also has a right to petition for judicial review in Circuit Court, as provided in Wis. Stats. ss. 227.52 and 227.53. The petition for judicial review must name the Department of Transportation, Uninsured Motorist Hearing Unit as respondent, must be filed in Circuit Court, and must be served on the Department of Transportation, Uninsured Motorist Hearing Unit either in person or by certified mail. The petition for judicial review must be served and filed within thirty (30) days after service of this decision. If a rehearing is requested as noted in the preceding paragraph, any party seeking judicial review must serve and file a petition for judicial review within thirty (30) days after service of the order disposing of the rehearing request or within thirty (30) days after final disposition by operation of law of the rehearing request. Persons wishing to petition for judicial review are advised to closely examine and strictly comply with all the requirements of Wis. Stats. ss. 227.52 and 227.53. A request for judicial review will not delay or stop a suspension order.

BEFORE THE WISCONSIN DEPARTMENT OF TRANSPORTATION

IN THE MATTER OF SUSPENSION OF
THE OPERATING PRIVILEGE OF
LEONEL ORTIZ AND ALL
REGISTRATIONS OF GERARDO
ALARCON HUERTA

FINDINGS OF FACT
CONCLUSIONS OF LAW
AND DECISIONS
SR-145570

Pursuant to due notice, Hearing Examiner Karen Roscoe held a hearing in Madison on August 30, 2010, for the Department of Transportation. Leonel Ortiz appeared in person and represented Gerardo Alarcon Huerta who did not appear. Reynaldo Cruz from DMV translated. Brian Banach, Hearing Examiner, observed.

Having considered all of the evidence submitted at the hearing, the Department of Transportation finds and decides as follows:

FINDINGS OF FACT

1. A motor vehicle accident occurred on April 12, 2010, on West Mineral Street in Milwaukee, Wisconsin, involving an auto driven by Leonel Ortiz and owned by Leonel Ortiz and Gerardo Alarcon Huerta and an auto driven by Gregory K. Sousek and owned by City of Milwaukee.
2. An entrance runs north of West Mineral Street. The accident occurred during the hours of darkness in a lighted area. It was raining and the roads were wet.
3. The Ortiz auto, northbound on South Cesar E. Chavez Boulevard, turned right on West Mineral Street, braked, slowed and attempted to turn left. The Sousek auto with its grill emergency lights activated, southbound on South Cesar E. Chavez

Boulevard, turned left to West Mineral Street, activated its emergency siren and side swiped the Ortiz auto.

4. A judgment including approximate court costs for the damage to the property owned by City of Milwaukee could total \$2,755.

5. There is no reasonable possibility that Leonel Ortiz would be found causally negligent in the operation of his motor vehicle at the time of the accident which resulted in the aforementioned property damage.

MEMORANDUM ACCOMPANYING FINDINGS OF FACT

The record consists of four exhibits, a police accident report, an evaluation of motor vehicle damage, a sheet of four digital photographs of the Ortiz auto, and an estimate of repairs for the Ortiz auto from Audatex. The latter two exhibits submitted by Leonel Ortiz. Additionally, it contains the testimony of Leonel Ortiz.

Leonel Ortiz testified that his auto had turned right to West Mineral Street from South Cesar E. Chavez Boulevard. He stated he activated his auto's left turn signal after it turned right. He stated he did not see the Sousek auto, its emergency lights or hear a siren. He stated as his auto began to turn left it was struck from the Sousek auto traveling eastbound in the westbound lane of traffic. He stated the entrance from the corner is approximately 30 to 35 feet. He stated he was looking at the westbound lane of traffic on West Mineral Street checking for traffic at impact.

We find the record contains substantial, credible evidence to suggest a reasonable possibility exists a jury would find both Leonel Ortiz and Gregory K. Sousek negligent. We find, however, in balance, and viewing the record in its entirety Gregory K. Sousek

more negligent. Under Wisconsin law, a person with greater negligence cannot recover his loss from a person with lesser negligence, s. 895.045(1), Stats.

We also find Gerardo Alarcon Huerta is not subject to the provisions of s. 344.14, Stats.

CONCLUSIONS OF LAW

1. No reasonable possibility exists of a judgment being rendered against Leonel Ortiz for the damage to property owned by City of Milwaukee.
2. Leonel Ortiz is not subject to the security requirements of Wisconsin's Safety Responsibility Law.
3. Gerardo Alarcon Huerta, as vehicle co-owner, is not subject to the security requirements of Wisconsin's Safety Responsibility Law under s. 344.14, Stats.

DECISION

1. The suspension proceedings under the Safety Responsibility Law shall be terminated for good cause against Leonel Ortiz and Gerardo Alarcon Huerta.

Dated this 15th day of September, 2010.


Karen Roscoe, Hearing Examiner

clm