

Injury Attorneys

3535 West Wisconsin Avenue Milwaukee, Wisconsin 53208-3153 Phone 414-342-1000 Fax 414-342-5060

September 19, 2019

APPEAL OF DENIAL OF LIABILITY POSTMARKED AUGUST 30, 2019 C. I. File 1030-2019-80ECEIVED HAND DELIVER POICE OF CITY ATTORNEY

Mr. Jim Oweczarski Milwaukee City Clerk 200 East Wells Street, Room 205 Milwaukee, Wisconsin 53202

John P. Carlson David M. Blau

Of Counsel

Chris M. Clemens Randall M. Aronson George E. Chaparas

Gene N. Silverman

David L. Heber, M.D., F.A.C.S.

Medical Consultant

Re:

Our Client:

Date of Loss:

Gwendolyn R. Person December 3, 2018

C. I. File No.:

1030-2019-80

Dear Mr. Owerczarski:

Pursuant to Milwaukee City Ordinance Finance 304-7 section 3, Gwendolyn R. Person hereby states she is aggrieved by the denial of her above referenced claim and requests the Common Council of the City of Milwaukee, Wisconsin provide her with the right of review of her claim as provided by City Ordinance.

Ms. Person is aggrieved by the denial of her claim as follows:

- When her vehicle was struck by the City's dump truck she was stopped behind 1. another car waiting to turn right into a parking lot.
- 2. Her vehicle was fully and completely in her lane of traffic. No part of her vehicle was in the lane of traffic of the City's dump truck.
- 3. The damage to her vehicle reveals the City's dump truck first contacted the forward area of the left rear wheel well and then continued in a forward direction toward the driver's door of her vehicle. Said damage is consistent with the direction of travel of the City's dump truck.

The forgoing does not exhaust all of the grounds which Ms. Person expects to elicit at the hearing of her appeal herein.

Enclosed is a copy of the City Attorney's letter dated August 28, 2019, denying liability and its enclosed envelope postmarked August 30, 2019, from which this appeal is taken. Please contact this office to schedule the hearing requested herein.

Sincerely,

CARLSON, BLAU & CLEMENS, S. C. Attorneys for Gwendølyn R. Person

Don't Drop the Ball ⊗ Make the Call!™



800 City Hall, 200 E. Wells St., Milwaukee, WI 53202, Telephone 414-286-2601, Fax 414-286-8550

MEMORANDUM

TO:

Receiving City Department

FROM:

City Attorney's Office - Claims Section

RE:

New Claim Filed

We have received the attached claim. Please review your records and determine if any accident reports were sent to your department from us to bill this loss. If so, please bill this immediately and send it to the Kohn Firm under the protocol.

SMC/cdr

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JAN 142019

WRITTEN NOTICE OF CIRCUMSTANCES OF CLAIM PURSUANT TO SECTIONS 893.80(1d)(a), 345.05(3) and 801.11(4)(a)3. WIS. STATS. (2011)

TO: The City of Milwaukee, a municipal corporation, care of its City Clerk, Mr. Jim Owczarski, in his office at City Hall, 200 E. Wells St., Room 205, Milwaukee, WI. 53202

NOTICE OF CIRCUMSTANCES OF CLAIM as required by Section 893.80(1d)(a), Wis. Stats. (2011), is hereby served upon the City of Milwaukee that Gwendolyn R. Person suffered personal injuries and property damage and has a claim therefore under the following circumstances:

- 1. That Gwendolyn R. Person is an adult residing at 4419 West Olive Street, Milwaukee, Wisconsin 53216.
- 2. That on or about the 3rd day of December, 2018, at approximately 10:26am, Gwendolyn R. Person was operating a motor vehicle traveling westbound on West Hampton Avenue just west of its intersection with North 76th Street in the City and County of Milwaukee, State of Wisconsin, when she was struck on the driver's side by one Malcolm Wilson, Jr., who, on information and belief, is an employee and/or agent of the City of Milwaukee and was operating a City of Milwaukee motor vehicle within the scope of his said employment and/or agency at the time of these events.
- 3. That said Malcolm Wilson, Jr. was negligent for a lane deviation and intrusion into Gwendolyn R. Person's lane of traffic, and was otherwise negligent all as is set out in more detail in the Wisconsin Motor Vehicle Accident Report number J9L0HKW14X, dated December 3, 2018, prepared by the Milwaukee Police Department, which is attached hereto and incorporated herein as if fully set forth at length.
- 4. That as a direct and proximate result of the City of Milwaukee's employee's negligence, claimant was caused to suffer property damage and severe and permanent personal injuries, including, but not limited to, injuries to her back and knee

PLEASE TAKE NOTICE that this is a **Notice of Circumstances of Claim**, under Section 893.80(1d)(a), Wis. Stats. (2011). It is **not** a **claim** under Section 893.80(1d)(b), Wis. Stat. (2011). **Therefore, there is nothing for City of Milwaukee to allow or disallow with respect to this document.** After Gwendolyn R. Person 's treatment is completed and her injuries are evaluated, she will present a claim under Section 893.80(1d)(b), Wis. Stats. (2011) for the party served herein to allow or disallow as it sees fit. There is no requirement that Gwendolyn R. Person serve a claim, as opposed to a **Notice of Circumstances of Claim**, within 120 days of her December 3, 2018, injury. See <u>Figgs v. City of Milwaukee</u>, 121 Wis.2d 44, 357 N.W.2d 548 at 552 (1984).

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CIT OF MILWAUKEE

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Dated this	day of	January	_, 2019

CARLSON, BLAU, & CLEMENS, S.C. Attorneys for Claimant, Gwendolyn R. Person

BY:

Randall M. Aronson State Bar No. 1007585

POST OFFICE ADDRESS 3535 West Wisconsin Avenue Milwaukee, Wisconsin 53208

AN 1 4 2019

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CARLSON, BLAU, & CLEMENS, S.C. Attorneys for Claimant, Gwendolyn R. Person

Randall M. Aronson

State Bar No. 1007585

POST OFFICE ADDRESS 3535 West Wisconsin Avenue Milwaukee, Wisconsin 53208

WISCONSIN MOTOR VEHICLE **CRASH REPORT**

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WISCONSIN MOTOR VEHICLE **CRASH REPORT**

MILWAUKEE POLICE DEPARTMENT 749 WEST STATE STREET MILWAUKEE, WI 53201 (414) 933-4444

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Crash Time 10:26 AM

WISCONSIN MOTOR VEHICLE **CRASH REPORT**

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CONTRACTOR									
-		Owner Name MILWAUKEE CITY	Owner Address 2142 W CANAL ST						
		(414) 286-5561	MILWAUKEE, WI 53233 , US						
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		Equipment							
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		NOT EJECTED	NOT EJECTED/NOT APPLICABL	NOT TRAPPED					

WISCONSIN MOTOR VEHICLE CRASH REPORT

Manage	Medical Transport		EMS Agency Identifier			EMS Run #					
-		NOT TRANSPORTED									
A Committee		Hospital			Date of	Date of Death			Time of Death		
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		Action Other									
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		Drug Test Given TEST NOT GIVEN			Drug T	est Type			Drug Test R	esults	
0.1	001	Drug Type									
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		APPEARED NORMAL									
		Carrier									
		Use Vehicle Owner Same as Carrier			Source VEHICLE-SIDE						
01	6	MILWAUKEE CITY USDOT# 0			Address 2142 W CANAL ST MILWAUKEE, WI 53233, US						
	BUS	GVWR		onfiguration	(3 OR MORE AXLES) DUM			go Body Type			
LINO		MORE THAN 26,000 LE US DOT#	Carrier T					mitted Load			
	UCK	0		TATE CARRIE					OT APPLICABLE		
	TRI	OS/OW Load	ermit Number	L F					nicle Required Escort Vehicle Present Measured Weight Present Present		
		Measured Height	ivieasi	ured Length		ivieasured	vviatn		ivieasured vv	eignt	
	Uni	it Summary	era de la companya della companya della companya de la companya della companya de	and the second				er complete o		epigene Mari	to the same of the same
	20000	Status TRANSIT			Vehicle O		Classification		Unit Type	DII E	1000
02	Veh	icle Type SSENGER CAR			D CLAS.	-		TS .	AUTOMOBILE Operating As Endorsements		
		al Occs	Train/Bus # In	jured				Total Tra	ilers	Total Hazi	Mat Types
	Inst	ırance?	Direction Of T	00000		e CrashTir	e	Speed Li	mit	Total Lane	es
TINO	YE	S st Harmful Event: Collision Wi	WESTBOUI	AD O	Special Fu		19	30	Emergency		cle Use
2	MC	TOR VEH IN TRANSPOR			AND THE PERSON NO.	CIAL FUN	CTION		NOT APP		(0.0) - I
	Traffic Way DIVIDED HWY W/O TRAFFIC BARRIER			Traffic Control NO CONTROL			Traffic Control Inoperative/Missing NO				

WISCONSIN MOTOR VEHICLE CRASH REPORT

	Surface Type		Road Curvature		Road Grade				
- 1	BLA	CKTOP (BITUMINOUS)	P (BITUMINOUS) STRAIGHT		LEVEL				
ı	Truck	Bus or HazMat							
	NO								
	· ·	/ehicle							
2,000	HACKSTEEN			T 64	LO-untraflessores				
HIRAMA		License Plate Number	Plate Type	St	Country of Issuance				
Statution		443ZPB	AUT - AUTOMOBILE	WI	UNITED STATES				
~	100	Vehicle Identification Number	Make	Year	Model				
02	07	1G1PC5SB9F7205973	CHEVROLET	2015	CRUZE				
121,0407		Color	Body Style		Bus Use				
1		SIL - SILVER (ALUMINUM)	SD - SEDAN		NOT A BUS				
1	ш	Initial Contact Point	Vehicle Damage						
L		9LEFT SIDE MIDDLE	Verileic Barrage						
LINO	VEHICL		0 FET OIDE DE AD 0 FI	ET OIDE III	IDDI F				
5	ਜ	Extent Of Damage	8LEFT SIDE REAR, 9LEI	FI SIDE IVI	IDDLE				
	\S	FUNCTIONAL DAMAGE							
		Towed Due To Damage	Vehicle Removed By						
		NOT TOWED	OWNER						
		What Driver Was Doing	Vehicle Factors						
		RIGHT TURN							
		Driver Prior Action Other	NOT APPLICABLE						
			Standard Marketing (1998) and Standard Standard Committee (1998) and Standard Committee (1998) a						
		Driver Actions	Language de la companya de la compa						
		UNKNOWN							
_	Ш	ommown.							
LINO	VEHICLE								
5	H	я							
	5								
1									
		Driver Distractions							
		UNKNOWN IF DISTRACTED	×.						
		9							
02	02								
				(6					
		Owner Name	Owner Address						
		GWENDOLYN R PERSON	4419 W OLIVE ST						
		(414) 748-1192	MILWAUKEE, WI 53216	6.US					
		(,		D WANTED					
		Sequence Of Events							
	-	Event							
	0	MOTOR VEH IN TRANSPORT							
		Event							
	02	Nati La considera		•8					
		Event							
	03	Event							
		Alba de la companya d			- annual cross a manual control of the control of t				
	0.4	Event							
				and the second second					
b-		Policy Holder							
FIND		Insurance Company	Individual						
5		AMERICAN-FAMILY-INS-CO	GWENDOLYN PERSON						
		Individual							
1		Driver	Citations Issued		Sex				
l	L	GWENDOLYN R PERSON	0		FEMALE				
	A	(414) 748-1192	Date of Birth		Race				
H	DUAL		02/16/1949		BLACK				
1 ====	in the second second	51							

WISCONSIN MOTOR VEHICLE CRASH REPORT

S	INDIV	Address 4419 W OLIVE ST	Driver License Number P6252964955609 STATE: WISCONSIN COUNTRY: UNITED STATES					
	=	MILWAUKEE, WI 53216 , US	STATE. WISCONSIN COUNTRY. OF	WITED STATES				
		Equipment On Duty Crash	Safety Equipment					
		Seat Position	SHOULDER & LAP BELT					
		1FRONT SEAT-LEFT SIDE (DRIVER/MOTORCY		il .				
		Helmet Use	Helmet Compliance					
		Eye Protection	Tint Compliance					
02	002	Injury Severity	Airbag					
0	ō	Injury NO APPARENT INJURY	NON DEPLOYED .					
		Ejected	Ejection Path	Trapped/Extricated				
		NOT EJECTED Medical Transport	NOT EJECTED/NOT APPLICABL EMS Agency Identifier	NOT TRAPPED EMS Run #				
		NOT TRANSPORTED	ENIS Agency Identifier	LIVIO IVUII #				
		Hospital	Date of Death	Time of Death				
		Non Motorist Striking Unit # Prior Action	Location	To/From School				
		Action						
	M							
LIND	INDIVIDUAL			4.				
5	≥							
	9							
		Action Other		15				
	ı	Drug & Alcohol Suspected Alcohol Use NO	Suspected Drug Use NO					
		Alcohol Test Given	Alcohol Test Type	Alcohol Test Results				
		TEST NOT GIVEN						
		Drug Test Given TEST NOT GIVEN	Drug Test Type	Drug Test Results				
02	002	Drug Type						
1								
		Individual Condition						
		APPEARED NORMAL						
1								