

THE JEFF SCOTT OLSON LAW FIRM, S. C.

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2021 JUN 25 PM 3:04
CITY CLERK'S OFFICE

June 23, 2021

via certified mail, return receipt requested

Jim Owczarski, City Clerk
City Hall
200 E. Wells Street, Room 205
Milwaukee, WI 53202

Re: Estate of Le'Quon J. McCoy

Dear Mr. Owczarski:

We enclose an itemized claim for relief.

Sincerely yours,
THE JEFF SCOTT OLSON LAW FIRM, S. C.



Jeff Scott Olson

cc: Attorney Randall Aronson
Antoinette L. Broomfield
Louis T. McCoy

enc.
JSO:tim

RECEIVED
OFFICE OF CITY ATTORNEY

JUN 28 2021

12:48 A.M./P.M.

CITY CLERK'S OFFICE

2021 JUN 25 PM 3:19

CITY OF MILWAUKEE

**ITEMIZED CLAIM FOR RELIEF
PURSUANT TO WIS. STATS. § 893.80(1d)(b) and § 345.05(2)-(3)**

Sent via Certified Mail, Return Receipt Requested

June 23, 2021

TO: Jim Owczarski, City Clerk
City Hall
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This is an itemized claim for relief as required by Wis. Stat. § 893.80(1)(b)¹ and § 345.05(2)-(3)².

¹ **893.80 Claims against governmental bodies or officers, agents or employees; notice of injury; limitation of damages and suits.**

(1d) Except as provided in subs. (1g), (1m), (1p) and (8), no action may be brought or maintained against any volunteer fire company organized under ch. 213, political corporation, governmental subdivision or agency thereof nor against any officer, official, agent or employee of the corporation, subdivision or agency for acts done in their official capacity or in the course of their agency or employment upon a claim or cause of action unless:

(b) A claim containing the address of the claimant and an itemized statement of the relief sought is presented to the appropriate clerk or person who performs the duties of a clerk or secretary for the defendant fire company, corporation, subdivision or agency and the claim is disallowed.

² (2) A person suffering any damage proximately resulting from the negligent operation of a motor vehicle owned and operated by a municipality, which damage was occasioned by the operation of the motor vehicle in the course of its business, may file a claim for damages against the municipality concerned and the governing body of the municipality may allow, compromise, settle and pay the claim. In this subsection, a motor vehicle is deemed owned and operated by a municipality if the vehicle is either being rented or leased, or is being purchased under a contract whereby the municipality will acquire title.

(3) A claim under this section shall be filed in the manner, form and place specified in s. 893.80. The limitations under s. 893.80 (3) are applicable to a claim under this section, except that the amount recoverable by any person for any damages, injuries or death in any action shall not exceed \$250,000.

The claimants are Antoinette L. Broomfield and Louis T. McCoy, who are the parents of the deceased Le'Quon J. McCoy. Antoinette L. Broomfield presently resides at 4228 North 91st St., Apt. 2, Milwaukee, WI 53222. Louis T. McCoy presently resides at 3232 North Liberty Drive, Rockford, IL 61101.

The claimants seek relief against the City of Milwaukee and Milwaukee Police Officers Jose Flores, Nikolas Zens, David Michaels, and Douglas Pavlik.

The claimants state that the circumstances giving rise to the claim are as follows:

1. On August 1, 2019, Lequon J. McCoy, age 19 (born 02/24/2000), was killed in a motor vehicle crash at 1:06 a.m. at the intersection of North 12th Street and West Locust Street in Milwaukee, Wisconsin.
2. He was driving a 2018, black Jeep Renegade eastbound on West Locust Street when a stolen 2014 brown Buick Encore traveling southbound at a high rate of speed on North 12th Street ran the red flashing traffic signal that controlled traffic moving in its direction of travel and crashed into Le'Quon J. McCoy's automobile.
3. The force of the initial impact caused the McCoy Jeep to first strike a tree on the east side of 12th Street south of the intersection and then to hit a parked vehicle on the west side of 12th Street, parked south of the tree.
4. Although attended by first responders, Le'Quon J. McCoy died at the accident scene.
5. At the time of this crash the Buick Encore was being driven by Aaron A. Fitzgerald and was being actively pursued by the Milwaukee Police Department, as described in greater detail below.
6. Following the crash, Mr. Fitzgerald was transported to a medical facility and taken into custody.
7. He received two citations, one for Vehicle Operator Flee/Elude Officer causing death and the second for Knowingly Operate Vehicle without valid license causing death.
8. Mr. Fitzgerald was prosecuted in Milwaukee County Circuit Court case 2019 CV 3454. The complaint alleged an additional count of Second Degree Reckless

Homicide, Mr. Fitzgerald pled guilty to Reckless Homicide. The other counts were dismissed but read in for sentencing. Mr. Fitzgerald was sentenced to ten years imprisonment with eight years of extended supervision thereafter and other conditions.

9. The crash that killed Le'Quon J. McCoy was caused in substantial part by the negligent and irresponsible acts and omissions of officers of the Milwaukee Police Department, as described in greater detail below.
10. On August 1, 2019, at approximately 1:02 a.m., Officers Jose Flores and Nikolas Zens, in squad 7369, were on patrol in the area of N. Sherman Blvd. and W. Hampton Ave.
11. The officers were in a marked Milwaukee Police Department squad car equipped with red and blue emergency lights and an audible siren. Both officers were wearing full Milwaukee Police Department uniforms. Officer Flores was driving.
12. While Officers Flores and Zens were traveling east on W. Hampton Ave., they observed a brown Buick Encore, that it was later determined was being driven by Aaron A. Fitzgerald, traveling south on N. Sherman Blvd.
13. The officers observed the Buick fail to stop for the red light at the intersection of W. Hampton Ave.
14. Officers Flores and Zens were able to get close enough to the Buick to read its displayed Wisconsin registration plate, which read 537-WRT, and they conducted a wanted check. The wanted check revealed that the Buick had been reported stolen on July 6, 2019.
15. At this point the Buick was in the 3700 block of W. Congress St traveling east.
16. Officers Flores and Zens activated the emergency lights and siren of their squad in an attempt to conduct a traffic stop on the stolen Buick. Instead of stopping for Officers Flores and Zens, the operator of the Buick increased its speed in an attempt to elude the officers.
17. The Buick turned right to proceed south on N. 35th St. increasing its speed to approximately 70 miles per hour. When the Buick got to the intersection of W. Capitol Dr. and N. 35th St., it turned left and proceeded east on W. Capitol Dr. without stopping for the red light. The Buick continued east on W. Capitol Dr.

reaching speeds in excess of 80 miles per hour, and nearly striking several eastbound vehicles.

18. When the Buick reached N. 20th St. it made a right turn to proceed south on N. 20th St. The Buick failed to stop for the red light at the intersection of N. 20th St. and N. Teutonia Ave., turning left to travel south by southwest on N. Teutonia Ave. and reaching speeds of approximately 70 miles per hour. The Buick then cut through a parking lot and turned north on N. 18th St. and continued north to W. Keefe Ave. It turned right onto W. Keefe Ave. and then left onto N. 16th St.
19. At this point, two additional Milwaukee police officers, Patrol Officer David Michaels and Patrol Officer Douglas Pavlik, who were on duty in Vehicle #549, which is a marked Milwaukee Police Department Ford Explorer equipped with red and blue oscillating police lights, joined the pursuit of the Buick being driven by Fitzgerald.
20. After traveling north approximately one block on N. 16th St., the Buick stopped and two passengers exited the vehicle on the passenger side.
21. The pursuing officers at that point were in two marked Milwaukee Police Department vehicles, but did not make any attempt to physically block the Buick when it stopped to discharge passengers. Instead, the squad car occupied by Flores and Zens stopped behind the Buick.
22. The Buick then sped away, weaving down numerous residential streets in the area at high rates of speed.
23. The Pavlik/Michaels squad car at this point became the lead vehicle in the pursuit and the Flores/Zens squad car became the secondary vehicle in the pursuit.
24. Throughout the pursuit, in an effort to elude the pursuing officers, Fitzgerald proceeded recklessly, at illegal and unsafe speeds, disregarding stop signs and traffic lights, and otherwise disregarding the rules of the road.
25. The four pursuing officers had no plan for terminating this dangerous pursuit through residential and commercial streets in metropolitan Milwaukee either by effecting the immediate apprehension of the Buick or by just ending the pursuit, and did not consult with their superiors regarding the termination of the pursuit despite the fact that the Buick's high speeds and disregard for the rules of the

road created an open and flagrant danger of death or great bodily injury to a great many persons in the area including innocent drivers on nearby streets.

26. All four pursuing officers violated the duty conferred upon them by Wis. Stat. § 346.03(5) "to drive or ride with due regard under the circumstances for the safety of all persons."
27. Since the pursuit was occurring in darkness, in the early hours of the morning near tavern-closing time, continuing it indefinitely without any plan to effect the immediate apprehension of the fleeing driver created a situation in which "the prevailing traffic, roadway, or environmental conditions so enhance[d] the risk involved in continuing the pursuit that termination [was] warranted," and continuing the pursuit therefore violated para. G.3.c. of the Milwaukee Police Department Standard Operating Procedure on Vehicle Pursuits and Emergency Vehicle Operations.
28. The Buick ultimately made a right turn from W. Burleigh St. onto N. 12th St., where it was traveling south.
29. As the Buick approached W. Locust S. it failed to stop for the red light at the intersection of N. 12th St. and W. Locust St. and struck Le'Quon J. McCoy's eastbound 2018 Jeep Renegade.
30. The driver and sole occupant of the Jeep, Le'Quon J. McCoy, was pronounced deceased at the scene. The driver and sole occupant of the Buick was extricated from the vehicle and transported to Froedtert Hospital for treatment of serious injuries.
31. The City of Milwaukee is liable for the unlawful actions of Jose Flores, Nikolas Zens, David Michaels, and Douglas Pavlik to the extent that each of them was acting within the scope of his employment pursuant to Wis. Stats. § 895.46.
32. The actions of Jose Flores, Nikolas Zens, David Michaels, and Douglas Pavlik caused Le'Quon McCoy's death and caused his parents to incur funeral expenses and to suffer the loss of their son's society and companionship. Further, Le'Quon McCoy suffered physically from his injuries before he died. The actions and inactions of Jose Flores, Nikolas Zens, David Michaels, and Douglas Pavlik, as described above, could result in claims for damages, including without limitation claims actionable as negligence and/or other causes of action.

33. The claimants seek monetary damages in the following amounts:

Pain, suffering, mental and emotional distress, of Le'Quon McCoy	\$100,000
Antoinette L. Broomfield and Louis T. McCoy's loss of the society and companionship of Le'Quon McCoy:	\$145,000.00
Funeral Expenses and other out-of pocket losses	\$5,000.00
<hr/> Total	<hr/> \$250,000.00

34. This claim is made in order to protect the claimants' rights in the event that a court decides that any of their claims are subject to § 893.80 and § 345.05(2)-(3), Wis. Stats., but the claimants do not concede that any of their claims are subject to § 893.80 or § 345.05(2)-(3), Wis. Stats. This claim is made in the amount of \$250,000.00 only because that is the maximum amount permitted by § 345.05(3), Wis. Stats. It is not intended to be a concession either that § 893.80 or § 345.05(2)-(3), Wis. Stats., applies to these claims or that the claimants' damages do not exceed the \$250,000.00 maximum amount permitted by § 345.05(3), Wis. Stats.
35. The above is an itemization of the claimants' claims under state law. There may be other claims filed under state or federal law for other forms of relief or for relief in other amounts.

Dated this Wednesday, June 23, 2021.

Respectfully Submitted,

Antoinette L. Broomfield and Louis T. McCoy,

Claimants,

By

The Jeff Scott Olson Law Firm, S.C.

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