



**CITY OF WAUKESHA**

**Administration**

201 Delafield Street, Waukesha, WI 53188  
 Tel: 262.524.3701 fax: 262.524.3899  
 www.waukesha-wi.gov

<b>Committee:</b> None	<b>Date:</b>
<b>Common Council Item Number:</b> 20-0376	<b>Date:</b> 3/17/2020
<b>Submitted By:</b> Brian Running	<b>City Administrator Approval:</b> Kevin Lahner, City Administrator
<b>Finance Department Review:</b> Rich Abbott, Finance Director <a href="#">Click here to enter text.</a>	<b>City Attorney's Office Review:</b> Brian Running, City Attorney BER
<b>Subject:</b> Disallowance of claim for personal injury damages filed by Melissa Raines.	

**Details:**

See the attached notice of claim for details of the incident. The City may be liable for the damages if it is shown that the City had notice of the condition of the sidewalk and did not take reasonable steps to correct an unsafe condition. That is a fact that the claimant would have to prove, and is something that our liability insurance company should investigate and analyze. There are also issues of proximate cause, contributory negligence, and amount of damages.

A disallowance does not bar recovery, it just shortens the time period in which a lawsuit can be filed. Ms. Raines is represented by a lawyer, so she should not be at any disadvantage in navigating the legal requirements of her claim.

**Options & Alternatives:**

The alternative is to allow the claim and to pay Ms. Raines the amount she demands. This is not recommended.

**Financial Remarks:**

There is no financial impact from a disallowance.

**Executive Recommendation:**

Disallow the claim and authorize the Clerk to issue a formal notice of disallowance.



**NOTICE OF CLAIM OF MELISSA RAINES PURSUANT TO SECTIONS  
893.80(1d)(b) AND 345.05, WIS. STATS.**

**TO: City Clerk  
ATTN: Claims  
201 Delafield Street  
Waukesha, WI 53188**

3850m  
PROCESS SERVER  
TIME AM/PM DATE  
( ) PERSONAL ( ) SUBSTITUTE  
( ) POSTED ( ) CORPORATE  
MJE 8/6/20

Please be advised that Melissa Raines of 2989 Red Bird Trail, Castle Rock, Colorado, 80108, hereby gives notice of claim concerning all matters relating to injuries she sustained as a result of the incident on May 5, 2018, in which Ms. Raines was walking near 3633 Applewood Drive, Waukesha, WI when she tripped and fell on a two inch uneven slap of sidewalk, causing her injuries.

**DATE:** May 5, 2018

**LOCATION:** 3633 Applewood Drive, Waukesha, WI 53189

**CIRCUMSTANCES:** On May 5, 2018 Ms. Raines was walking on the sidewalk outside the residence located at 3633 Applewood Drive, Waukesha, WI. Ms. Raines tripped and fell on a two-inch uneven slab of sidewalk, which caused her injuries. The City was made aware of this hazard by the homeowners since as early as August 9, 2017. It is our understanding the City eventually repaired this area of sidewalk on August 17, 2018, an entire year after the request was made.

The City of Waukesha is responsible for maintaining safe pavement on sidewalks. The primary purpose of a sidewalk is to provide for safe transit for pedestrians. The failure to maintain the sidewalk led to severe and painful injuries for Melissa Raines, and the City of Waukesha is liable.

The City of Waukesha, through its employees, servants, agents, contractors, and/or subcontractors is hereby notified that Melissa Raines makes this claim against the City of Waukesha, its employees/agents, for the recovery of money damages as itemized as follows:

- |   |                         |
|---|-------------------------|
| 1. Past Medical Expenses                          | Greater than \$2,929.00 |
| 2. Past and future pain, suffering and disability | \$90,000.00             |
| <b>TOTAL:</b>                                     | <b>\$105,000.00</b>     |


An itemized list of medical expenses incurred by Melissa Raines as a result of the accident is attached hereto. Melissa

Melissa Raines has retained Groth Law Firm, S.C. and the undersigned attorney is authorized to give this Notice of Claim.

**PLEASE SEND A WRITTEN ACKNOWLEDGEMENT OF THIS NOTICE OF CLAIM**

DATED at Wauwatosa, Wisconsin this 2 day of March, 2020.

Groth Law Firm, S.C.  
Attorneys for Melissa Raines

By:   
\_\_\_\_\_  
Mitchell J. Raasch (#1105378)

**Post Office Address:**  
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Wauwatosa, WI 53226  
(877) 375-7001