

**MEMORANDUM**

Date: October 20, 2020

To: Water Commission

From: Lynn Gomez, Assistant Manager – Employee Relations

Re: Disallowance of Claim – Victor Feliciano Cruz

On September 15, 2020, Waukesha resident Victor F. Cruz sustained damage in the amount of \$3,500 to his car after he drove into our construction ditch on E. Broadway. I've attached a copy of Mr. Cruz's email that claims the incident was due to lack of barrels placed to properly warn him of the road work ahead.

Mr. Cruz is vehicle #3 as referenced in the email presented with the previous claim. Mr. Cruz's car was undrivable and had to be towed out. He did contact the WPD, report attached.

I've enclosed a copy of our insurance carriers letter stating that there will be no coverage by our insurance because there was no negligence on our behalf. Furthermore, as soon as we were made aware of the situation, we corrected it.

I will ask for your formal motion to disallow this claim at the October Commission meeting.

***Recommended Motion:*** Disallow Claim of Victor Feliciano Cruz in the amount of \$3,500 as recommended by our insurance carrier.

Thank you!

Enc.

**From:** [Victor Feliciano](#)  
**To:** [Lynn Gomez](#)  
**Subject:** Re: Car damage on Broadway  
**Date:** Saturday, September 26, 2020 6:51:48 PM

---

Good afternoon Mrs. Gomez

Here is the information that was requested:

What happened?

What had happened was that it was dark at night, around 8:34pm. It's hard to see much of what's ahead of one at that time especially since it was curbed. There were no barrels in front of any lane or in front of any construction so I kept going straight and following the lane I was originally in. That was when it was too late and went into the construction hitting the main water pipe totaling the car.

Date of occurrence:

September 15, 2020. 8:34PM

Address of claimant:

1739 South 29th Street Milwaukee, WI 53215

Costs:

\$3,500

Frame, chassis, radiator, front bumper, engine, coolant system and not steering correctly. The car was totaled and can barely run or accelerate in the condition it's in.

If anything else is needed then please let me know.

From,

Victor Alexis Feliciano Cruz

On Wed, Sep 23, 2020 at 1:38 PM Lynn Gomez <[lgomez@waukesha-water.com](mailto:lgomez@waukesha-water.com)> wrote:

3VL0DN7D72  
2041091

WISCONSIN MOTOR VEHICLE  
CRASH REPORT

WAUKESHA POLICE DEPARTMENT  
1901 DELAFIELD STREET  
WAUKESHA, WI 53188  
(262) 524-3802

U.V. victor M Feliciano Perez  
 I: Progressive  
 warm Pipe  
 Valerie  
 9/17/2020

3VL0DN7D72

Document Number Override		Primary Crash Document #		Agency Crash Number		Investigating Officer/Deputy OFFICER A. MCNULTY	
Crash Date 09/15/2020		Crash Time 08:34 PM		Date Arrived 09/15/2020		Time Arrived 08:54 PM	
Date Notified 09/15/2020		Time Notified 08:36 PM		Total Units 01		Total Injured 00	Total Killed 00
<input type="checkbox"/> On Emergency	<input type="checkbox"/> Hit and Run	<input type="checkbox"/> Lane Closure	<input checked="" type="checkbox"/> Work Zone	<input type="checkbox"/> Trailer or Towed		<input type="checkbox"/> Reporting Threshold	
<input checked="" type="checkbox"/> Government Property		<input type="checkbox"/> Active School Zone		School Bus Related NO		Tags	
<input checked="" type="checkbox"/> Reportable		Crash Type DT4000 (STANDARD CRASH)		<input type="checkbox"/> Amended		<input type="checkbox"/> Secondary Crash	

Description

Diagram		Reconstruction By	
		Photos By	
		Additional Information NONE	

I, a sworn law enforcement officer, agree that I have not added any CJIS data in this report.

UNIT 1 APPROACHED THE CONSTRUCTION AND GOT CONFUSED WHICH LANE TO USE WHILE WESTBOUND ON E BROADWAY. UNIT 1 STARTED DRIVING INTO THE CONSTRUCTION AND STRUCK THE WATER MAIN PIPE THAT WAS STICKING OUT FROM THE GROUND. THERE WAS NO CONE AT THE START OF THE CONSTRUCTION PUSHING TRAFFIC TO THE LEFT OF THE WORKING ZONE.

3VL0DN7D72  
2041091

WISCONSIN MOTOR VEHICLE  
CRASH REPORT

WAUKESHA POLICE DEPARTMENT  
1901 DELAFIELD STREET  
WAUKESHA, WI 53188  
(262) 524-3802

UNIT VEHICLE	Color	Body Style	Bus Use
	GRY - GRAY	4D - 4DR	
	Initial Contact Point	Vehicle Damage	
	12 - FRONT	12 - FRONT, 14 - UNDERCARRIAGE	
	Extent Of Damage		
	DISABLING DAMAGE		
UNIT VEHICLE	Towed Due To Damage	Vehicle Removed By	
	NOT TOWED	OPERATOR	
	What Driver Was Doing	Vehicle Factors	
	NEGOTIATING CURVE	NOT APPLICABLE	
Driver Prior Action Other			
UNIT VEHICLE	Driver Actions		
	FAILED TO KEEP IN DESIGNATED LANE		
01 01	Owner Name	Owner Address	
	VICTOR M FELICIANO PEREZ (414) 469-0919	1739 S 29TH ST MILWAUKEE, WI 53215 , US	
<b>Sequence Of Events</b>			
01 02 03 04	Event	OTHER FIXED OBJECT	
	Event		
	Event		
	Event		
UNIT	<b>Policy Holder</b>		
	Insurance Company	Individual	
01	PROGRESSIVE-CLASSIC-INS-CO	VICTOR FELICIANO PEREZ	
UNIT INDIVIDUAL	<b>Individual</b>		
	Driver	Citations Issued	Sex
	VICTOR A FELICIANO CRUZ (414) 469-0919	0	MALE
		Date of Birth	Race
	04/25/2002	HISPANIC	
01 001	Address	Driver License Number	
	201 N CHARLES ST #208 WAUKESHA, WI 53186 , US	F4258610214501 STATE: WISCONSIN COUNTRY: UNITED STATES	
<b>Safety Equipment</b>	On Duty Crash		Safety Equipment
	Row	Seat Position	SHOULDER & LAP BELT
	01 - FRONT ROW	07 - LEFT	
	Helmet Use		Helmet Compliance
	Eye Protection		Tint Compliance
01 001	<b>Injury</b>		Airbag
	INJURY SEVERITY NO APPARENT INJURY		NON DEPLOYED
	Ejected	Ejection Path	Trapped/Extricated
NOT EJECTED	NOT EJECTED/NOT APPLICABLE	NOT TRAPPED	
Medical Transport		EMS Agency Identifier	EMS Run #
NOT TRANSPORTED			

September 28, 2020

Victor M. and Victor A. Cruz  
1739 South 29th Street  
Milwaukee, WI 53215

Regarding: Our Insured: Waukesha Water Utility  
Claim No: WM000672940007  
Date/Loss: 9/15/2020  
Claimant: Cruz – 2006 Honda Civic

Dear Victor M. and Victor A. Cruz,

Statewide Services, Inc. administers the claims for the League of Wisconsin Municipalities Mutual Insurance, which provides the insurance coverage for Waukesha Water Utility. We are in receipt of the claim you submitted for damage to your vehicle as a result of the above-referenced incident.

We have performed an investigation and have determined that there is no negligence on the part of Waukesha Water Utility for this incident. Our investigation has revealed that the Utility did not have prior actual or constructive notice of the displaced barrels in the construction zone on Broadway which allegedly caused this incident. A municipality has no liability unless it knew, or should have known, of the existence of the condition and had reasonable amount of time to correct the condition. The Utility maintains that the barrels were in place when it concluded construction work for the day on 9/15/20. Neighbors witnessed a vehicle enter the construction zone that evening and strike and disturb the barrels and cones present. In addition, a “Road Work Ahead” sign was present along the Westbound lane of Broadway at the time of your incident. Therefore, in the absence of negligence on the part of the Waukesha Water Utility, Statewide Services Inc. is recommending that the Utility disallow your claim. I regret that this is a final decision and if you wish to further pursue your claim against the Utility, legal action would be required.

Respectfully,

Sarah Bourgeois  
Statewide Services, Inc.  
PO Box 5555  
Madison WI 53705

CC: Waukesha Water Utility