



1 **City of Racine, Wisconsin**  
2 **Common Council**

3 **AGENDA BRIEFING MEMORANDUM**

4 **COMMITTEE:** Finance and Personnel

**LEGISLATION ITEM #: 1053-23**

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5 **AGENDA DATE:** November 13, 2023

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7 **DEPARTMENT:** City Attorney's Office

8 **Prepared By:** Deputy City Attorney Marisa Roubik

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10 **SUBJECT:** Communication sponsored by Alder West on behalf of the City Attorney's Office submitting  
11 the claim of Suzanne M. Ferguson for consideration for disallowance.

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13 **EXECUTIVE SUMMARY:**

14 Suzanne M. Ferguson filed a claim with the City requesting \$2,277.49 in damages allegedly arising  
15 from her vehicle getting white paint on it while she was driving on or around the intersection of Washington  
16 Avenue and the 800 block of South Marquette Street in Racine on or about June 13, 2023. The claimant  
17 alleges that, because there was white paint spilled in the roadway outside the City's Department of Public  
18 Works (DPW) Building located at 841 South Marquette Street, that said paint was spilled onto the roadway  
19 by a City vehicle. The claimant further alleges that she "had no option but to drive through [said] white  
20 paint," which, in turn, caused white paint to splash onto the claimant's vehicle on the date in question. The  
21 City denies liability because it asserts that the white paint in question fell off the rear of a passing vehicle  
22 that was not owned or operated by the City or any of its agents or employees, and the City's DPW was  
23 simply on the scene to clean up the spilled paint. Furthermore, the claimant was negligent for failing to  
24 maintain a proper lookout for potential hazards in plain sight within the roadway.

25 For these reasons, it is the recommendation of the City Attorney's Office that this claim be  
26 disallowed.

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28 **BACKGROUND & ANALYSIS:**

29 Suzanne M. Ferguson, of 2 Christopher Columbus, Racine, Wisconsin, 53403, filed a claim with  
30 the City requesting \$2,277.49 in damages allegedly arising from her vehicle getting white paint on it while

31 she was driving on or around the intersection of Washington Avenue and the 800 block of South Marquette  
32 Street in Racine on or about June 13, 2023.

33 The claimant alleges that, because there was white paint spilled in the roadway outside the City's  
34 Department of Public Works (DPW) Building located at 841 South Marquette Street, that said paint was  
35 spilled onto the roadway by a City vehicle. The City denies that it was responsible for the spillage of this  
36 paint. Rather, the City asserts that the white paint in question fell off the rear of a passing vehicle that was  
37 not owned or operated by the City or any of its agents or employees, and the City's DPW was simply on  
38 the scene to clean up the spilled paint

39 The claimant further alleges that she "had no option but to drive through [said] white paint," which,  
40 in turn, caused white paint to splash onto the claimant's vehicle on the date in question. However, all  
41 drivers have a duty to look out for potential roadway hazards in plain sight, such as fresh paint being applied  
42 to a street median. If a driver fails to keep a proper lookout for such potential hazards in their plain sight,  
43 the driver is negligent.

44 The City denies liability because it asserts that the white paint in question fell off the rear of a  
45 passing third-party vehicle, and the City's DPW was simply on the scene to clean up the spilled paint.  
46 Furthermore, the claimant was negligent for failing to maintain a proper lookout for potential hazards in  
47 plain sight within the roadway.

48 For the above stated reasons, it is the recommendation of the City Attorney's Office that this claim  
49 be disallowed.

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51 **BUDGETARY IMPACT:**

52 Assuming the recommendation to disallow this claim is adopted, this item would have a \$0.00  
53 impact on the City's budget.

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55 **RECOMMENDED ACTION:**

56 That the disallowance of this claim be recommended for approval.