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**City of Racine, Wisconsin
Common Council**

AGENDA BRIEFING MEMORANDUM

COMMITTEE: Finance and Personnel

LEGISLATION ITEM #: 0099-24

AGENDA DATE: February 26, 2024

DEPARTMENT: City Attorney's Office

Prepared By: Deputy City Attorney Marisa Roubik

SUBJECT: Communication sponsored by Alder West on behalf of the City Attorney's Office submitting the claim of Gregory C. Jackson for consideration for disallowance.

EXECUTIVE SUMMARY:

Gregory C. Jackson filed a claim, by and through his attorney, Mark J. Leuck, with the City requesting \$34,880.97 for damages allegedly arising from injuries he sustained as a passenger on a City bus in the 2300 block of Kearney Avenue, on or about April 21, 2021. The City maintains that the notice of circumstances for this claim was untimely filed and denies liability for the alleged damages. As such, it is the recommendation of the City Attorney's Office that this claim be disallowed.

BACKGROUND & ANALYSIS:

Gregory C. Jackson, of 3841 Green Street, Apartment 2, Racine, Wisconsin 53402, filed a claim, by and through his attorney, Mark J. Leuck of Schoone, Leuck, Kelley, Pitts & Pitts, S.C., 6800 Washington Avenue, Racine, Wisconsin 53406, with the City requesting \$34,880.97 for damages allegedly arising from injuries he sustained as a passenger on a City bus in the 2300 block of Kearney Avenue, on or about April 21, 2021.

The notice of circumstances that the claimant filed with the City on or about August 20, 2021 was filed untimely. Per Wis. Stat. § 893.80(1d)(a), a claimant must file a notice of the circumstances of a claim within 120 days of the happening of the event giving rise to the claim. The event giving rise to this claim occurred on or about April 12, 2021; therefore, the notice of circumstances for this claim would need to have been filed on or before August 10, 2021, in order to be timely filed, which it was not.

31 Moreover, the City did not have actual notice of the claimant’s injury because he himself indicated
32 that he was not injured on an accident report he completed on the date of the accident.

33 Furthermore, at the time of this alleged accident in April 2021, City bus drivers were employees of
34 Transit Management of Racine—they were not employees of the City of Racine. As such, the City is not
35 liable for the actions of the bus driver, which allegedly caused the bus accident at issue.

36 In sum, the City believes that the notice of circumstances for this claim was untimely filed and
37 denies liability for the alleged damages. As such, it is the recommendation of the City Attorney’s Office
38 that this claim be disallowed.

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40 **BUDGETARY IMPACT:**

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

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44 **RECOMMENDED ACTION:**

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