



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

3 **AGENDA BRIEFING MEMORANDUM**

4 **COMMITTEE: Finance and Personnel** **LEGISLATION ITEM #: 0911-22**

5 **AGENDA DATE: January 9, 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 Taft on behalf of the City Attorney’s Office submitting
11 the claim of Obed and Rose Pena for consideration for disallowance.

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13 **EXECUTIVE SUMMARY:**

14 Obed and Rose Pena claim reimbursement for an unspecified amount of damages allegedly arising
15 from an accident involving a Department of Public Works street sweeper on or about June 20, 2022. The
16 City believes that this claim was improperly filed, disputes the severity of the damages claimed, and its
17 liability therefor. As such, the City Attorney’s Office recommends that this Committee disallow the claim
18 of Obed and Rose Pena.

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20 **BACKGROUND & ANALYSIS:**

21 The Claimants, Obed and Rose Pena, of 5526 N. Kildare Avenue, Chicago, Illinois 60630, filed
22 this claim for reimbursement for an unspecified amount of damages, however, the Claimants are alleging
23 that the existing garage on their Racine property must be torn down and replaced in its entirety after it was
24 allegedly struck by a Department of Public Works street sweeper on or about June 20, 2022.

25 The Claimants assert that the street sweeper’s passenger side door and door handle got caught on
26 the roof of the garage at a property they own, located at 2033 Kearney Avenue, Racine, Wisconsin 53403,
27 which allegedly caused damage to said garage. Although the Claimants failed to include an itemized
28 statement of their alleged damages, they claim that their existing detached garage will need to be torn down
29 and replaced in its entirety due to this accident. Based on the preexisting condition of this garage and the
30 observed damages thereto, the City disputes the severity of the damages claimed and its liability therefor.

31 Furthermore, the claim that the Claimants filed with the City on or about October 11, 2022 did not
32 include an itemized statement of the relief sought, as required by law. As such, the Claimants did not satisfy
33 the statutory requirements for filing a claim in accordance with Wis. Stat. § 893.80(1d), and they do not
34 have a right to maintain an action against the City.

35 For the above stated reasons, the City Attorney’s Office recommends that this Committee disallow
36 the claim Obed and Rose Pena.

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38 **BUDGETARY IMPACT:**

39 Assuming the recommendation to disallow this claim is adopted, this item would have a \$0.00
40 impact on the City’s budget.

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42 **RECOMMENDED ACTION:**

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

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