



TO: Mayor and Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
Christopher J. Forsyth, Assistant City Attorney
DATE: December 20, 2006
SUBJECT: Norma Robertson v. City of Troy

Enclosed please find a copy of a lawsuit that was recently filed against the City of Troy by Norma Robertson. According to the allegations in the complaint, on January 10, 2006, Ms. Robertson sustained a fall on the sidewalk in front of 392 Hickory. The complaint alleges that the City is liable for her injuries under the defective highway exception to governmental immunity. The complaint alleges that the sidewalk was “unsafe and reasonably unfit”, due to a “raised portion of the sidewalk.”

Ms. Robertson’s damages are described in the complaint as a broken right arm, “past, present and future pain, mental anguish, and severe embarrassment.” She is seeking damages in excess of \$25,000, the circuit court jurisdictional limit. Our office will defend the City of Troy absent contrary direction.

If you have any questions concerning the above, please let us know.



JUDGE RAE LEE CHABOT
ROBERTSON, NOR V TROY CITY

STATE OF MICHIGAN

JUDICIAL DISTRICT
6th JUDICIAL CIRCUIT
COUNTY PROBATE

SUMMONS AND COMPLAINT

Court address

1200 N. Telegraph Rd., Pontiac, MI 48341

Court telephone no.

(248) 858-0582

Plaintiff name(s), address(es), and telephone no(s).
NORMA J. ROBERTSON
207 Cherry
Troy, MI 48083

Defendant name(s), address(es), and telephone no(s).
CITY OF TROY, a municipal corporation
500 West Big Beaver Road
Troy, MI 48084

v

Plaintiff attorney, bar no., address, and telephone no.
DAVID J. ELKIN (P36161)
15815 West Twelve Mile Road
Southfield, MI 48076-3043
(248) 552-8500

SUMMONS NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons to **file a written answer with the court** and serve a copy on the other party **or take other lawful action with the court** (28 days if you were served by mail or you were served outside this state). MCR 2.111(C)
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued DEC 13 2000	This summons expires MAR 14 2007	Court clerk RUTH JOHNSON
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*This summons is invalid unless served on or before its expiration date.

This document must be sealed by the seal of the court.

COMPLAINT Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.

Family Division Cases

- There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.
 - An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.
- The action remains is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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General Civil Cases

- There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
 - A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in _____ Court.
- The action remains is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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VENUE

Plaintiff(s) residence (include city, township, or village) Troy, MI	Defendant(s) residence (include city, township, or village) Troy, MI
Place where action arose or business conducted Troy, MI	

11/27/00
Date

Signature of attorney/plaintiff

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you to fully participate in court proceedings, please contact the court immediately to make arrangements.

06-079454-NO



OAKLAND COUNTY JUDGE RAE LEE CHABOT
ROBERTSON, NOR V TROY CITY

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

NORMA J. ROBERTSON, 2006 DEC 13 A 9:51

Plaintiff,

OAKLAND COUNTY CLERK

Case No. 06-

NO

-vs-

BY: _____
DEPUTY COUNTY CLERK

HON.

CITY OF TROY, a municipal corporation,

Defendant.

BLUM, KONHEIM, ELKIN & CEGLAREK
BY: DAVID J. ELKIN (P36161)
Attorney for Plaintiff
15815 West Twelve Mile Road
Southfield, MI 48076-3043
(248) 552-8500/Fax 1249

There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this complaint pending in this court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge, nor do I know of any other civil action, not between these parties, arising out of the same transaction or occurrence as alleged in this complaint that is either pending or was previously filed and dismissed, transferred, or otherwise disposed of after having been assigned to a judge in this court.

COMPLAINT

NOW COMES Plaintiff NORMA J. ROBERTSON, by and through her attorneys, BLUM, KONHEIM, ELKIN & CEGLAREK, by DAVID J. ELKIN, complaining against the Defendant herein says:

1. That the amount in controversy in this matter is in excess of **TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS.**
2. That Plaintiff NORMA J. ROBERTSON is a resident of the City of Troy, Oakland and State of Michigan.
3. That Defendant CITY OF TROY is a municipal corporation having offices located at 500 West Big Beaver Road in the City of Troy, Oakland County and State of Michigan 48084.

LAW OFFICES

BLUM, KONHEIM,
ELKIN & CEGLAREK
15 WEST TWELVE MILE ROAD
SOUTHFIELD, MI 48076-3043

(248) 552-8500

4. That at the time of the occurrence complained of herein, Defendant CITY OF TROY was a governmental entity engaged in the exercise or discharge of a governmental function.

5. That at all times herein mentioned, the above named Defendant had the duty and obligation to repair and maintain public sidewalks within its jurisdiction, in a reasonably safe and convenient condition for public travel, and are liable for bodily injuries resulting from a dangerous and defective condition existing thereon.

6. That on or about January 10, 2006, Plaintiff NORMA J. ROBERTSON was walking along a public sidewalk in an easterly direction in front of 392 Hickory on the south side of the street when she suddenly and without warning tripped over a raised portion of sidewalk, thereupon causing her to fall with great force and violence to the ground and to sustain severe and disabling permanent personal injuries as hereinafter set forth.

7. That there were no barricades, warning lights or signs warning persons lawfully using said public sidewalk of the said dangerous and hazardous condition therein created by the existence of the aforesaid defective sidewalk.

8. That the Defendant had, in fact, been previously put on notice of this defect, but did nothing to repair and/or otherwise barricade that portion of sidewalk which was in a dangerous state of disrepair.

9. That the Defendant, by and through its agents, servants and/or employees, owed a duty to the general public, and Plaintiff in particular, to maintain, monitor and otherwise supervise the condition of the sidewalk within its jurisdiction, and to take timely action in the correction of the dangerous and hazardous condition once Defendant received constructive notice of the defect, to ensure the safety of persons lawfully traversing the same.

10. That the Defendant was then and there guilty of one or more of the following negligent acts and omissions in violation of its duty to Plaintiff, although Defendant knew or, in the exercise of reasonable care and diligence, should have known of the dangerous and hazardous condition therein existing:

- a) *In negligently allowing and permitting the aforesaid sidewalk to exist in a dangerous state of disrepair without the use of barricades, warning signs or lights, or any other warnings whatsoever, warning persons of the hazardous condition then and there existing;*
- b) *In failing to keep sidewalks in the City of Troy, Oakland County in a safe condition and in good repair for persons whom they knew or should have known would be using said public sidewalk;*
- c) *In failing to properly and adequately supervise and monitor the condition of public sidewalks within its jurisdiction;*
- d) *In failing to maintain the sidewalks in the City of Troy, Oakland County in a safe, proper and adequate manner to ensure that same were not defective and hazardous to persons lawfully traversing the same;*
- e) *In failing to post warning signs, warning lights, barricades or any other warning device immediately around the area of the said defective portion of sidewalk to warn persons lawfully upon said sidewalk of the dangerous and hazardous condition therein existing;*
- f) *In failing to take proper and timely action to correct the existence of the hazardous condition of said public sidewalk, so that same would not become dangerous to pedestrian travel; and*
- g) *In negligently failing to act in a timely, efficient and proper manner once the Defendant was notified of the defect.*

11. That the hazardous, dangerous and defective condition of the aforementioned public sidewalk constitutes a public nuisance which was created by the negligence of Defendant CITY OF TROY, by and through its agents, servants and/or employees, to permit the said sidewalk to remain without warning signs, lights or barricades when the same was in a dangerous state of

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disrepair, which condition was unsafe and reasonably unfit for public travel.

12. That the Defendant failed to take proper and timely action to correct the existence of the aforesaid defective sidewalk, when it knew of its existence, likewise constituting a failure to remove a known public nuisance per se once Defendant received constructive notice of the defect.

13. That the aforesaid public sidewalk has been held to be included within the highway exception to governmental immunity, MCL 691.1402, and for the reasons set forth above, the Defendant is not entitled to governmental immunity for its negligence in failing to properly and adequately maintain and monitor the condition of the aforesaid public sidewalk in the City of Troy, Oakland County and State of Michigan.

14. That in the happening of the aforesaid incident, Plaintiff NORMA J. ROBERTSON was not guilty of negligence or contributory negligence, but that as a direct and proximate result of the negligence and carelessness of the said Defendant, your Plaintiff NORMA J. ROBERTSON has suffered severe personal injuries, including but not limited to the following:

- a) *Severe and physical injuries past, present and future to her head, neck, back, and a fracture of the right humerus requiring open reduction internal fixation as well as lacerations and contusions to and about said areas which may result in permanent scarring, all of which injuries are progressive and may be permanent;*
- b) *Past, present and future pain and suffering;*
- c) *Past, present and future medical, hospital, therapeutic and pharmaceutical expenses;*
- d) *Severe emotional distress and mental anguish;*
- e) *Severe embarrassment, gross indignity, humiliation, degradation, and aggravation of pre-existing condition; and*

f) *Loss of enjoyment of life.*

15. That the Defendant is liable to Plaintiff NORMA J. ROBERTSON for the severe injuries and damages sustained by her as a result of the aforesaid hazardous and dangerous condition of a public sidewalk in the City of Troy, Oakland County and State of Michigan.

WHEREFORE, and for the foregoing reasons, Plaintiff NORMA J. ROBERTSON prays for a Judgment against Defendant CITY OF TROY, a municipal corporation, for whatever amount said Plaintiff is found to be entitled, plus interest, costs and attorney fees.

Respectfully submitted,

BLUM, KONHEIM, ELKIN & CEGLAREK

BY: 

DAVID J. ELKIN (P36161)
Attorney for Plaintiff

DATED: November 27, 2006