

Statement for Release to Media:

Family of 17-year-old pedestrian files lawsuit against driver and City of Batavia for dangerous pedestrian crossing accident

June 2, 2021. The family of Simeon Girmscheid has filed a lawsuit in Kane County seeking the recovery of damages for the personal injuries the 17-year-old pedestrian sustained as a result of being struck by a vehicle operated by Melissa Murphy on June 4, 2020. The lawsuit alleges that Ms. Murphy was negligent when she operated her 2009 Acura MDX northbound on Route 31 in the left through lane, at the intersection of McKee Street in Batavia, Illinois. The lawsuit further alleges that the City of Batavia was negligent in failing to provide needed safety measures to protect pedestrians at the multiple lane crossing at the intersection. Among other evidence cited in the lawsuit, the City of Batavia is alleged to have known about serious dangers for pedestrians at the crosswalk, but yet failed to take any action.

The lawsuit brought on behalf of Simeon seeks the recovery damages for his serious injuries and medical bills.

For her part, Ms. Murphy was cited by Batavia Police for a violation of the Illinois Vehicle Code, 625 ILCS 5/11-1002(d), for failing to stop her vehicle for a pedestrian in a crosswalk. Ms. Murphy told police officers investigating the crash that there were vehicles that had been stopped in the curbside lane, which she stated prevented her from seeing a pedestrian in the crosswalk. As a result, Ms. Murphy struck Simeon with her vehicle, causing the young man to suffer serious injuries. The lawsuit alleges that Ms. Murphy was negligent in failing to yield to the right-of-way of a pedestrian and for failing to keep a proper lookout as she approached the crosswalk.

The lawsuit further alleges that the City of Batavia had known about the dangers posed by the crosswalk they installed in 2012 for several years, including the fact that the multiple northbound and southbound lanes of Route 31 presented a “multiple threat” situation for vehicles approaching the intersection. Before the crash that injured Simeon, the City of Batavia allowed a flashing pedestrian beacon at the intersection that had been damaged to go unrepaired. According to the suit, more measures were needed when the crosswalk was installed in order to provide safety for pedestrians.

The Girmscheid family is represented by St. Charles attorney, John Malm. “It is, in my view, unthinkable that the city would not maintain the warning beacon at the crosswalk after it had become damaged. If the City had already determined that the warning beacon was needed, then why not simply maintain it?”, Mr. Malm asks. “The City of Batavia knew that, with or without the flashing beacon, “there were additional safety measures that could and should have been undertaken when the crosswalk was originally installed, such as a painted line or “stop bar” and other signs or warning devices. The City of Batavia knew these devices were needed and would have provided a safer sight distance for vehicles and pedestrians alike – and they knew that, without these measures, people would surely continue to get hurt at this crosswalk,” Mr. Malm states.

According to public documents, as early as 2017, the City of Batavia was concerned about a “multiple threat crash problem” at the intersection where the first car stops for a pedestrian, but the second car approaching the intersection doesn’t stop, and hits the pedestrian at a high speed. “That’s what happened here”, Mr. Malm explained. The lawsuit cites engineering memos showing that the City of Batavia had been aware for at least two years that “immediate enhancement” was needed for the safety of pedestrians at the crosswalk, such as stop lines or stop bars, which could be added to stop traffic further away from the crosswalk to improve sight lines for pedestrian safety. According to one memo dated October 19, 2017, engineers had been recommending additional safety measures be added to the crosswalk in question for several years.

Simeon and his parents are represented by St. Charles attorney, John J. Malm, and his Kane County law firm, the Law Offices of John J. Malm & Associates.

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