



500 West Big Beaver  
Troy, MI 48084  
troymi.gov

## CITY COUNCIL AGENDA ITEM

Date: July 1, 2021

To: Honorable Mayor and City Council Members

From: Lori Grigg Bluhm, City Attorney

Subject: Polselli v. Troy et. al



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Attached please find a lawsuit filed against the City of Troy and the Road Commission of Oakland County, as well as Pro Line Asphalt. This case was filed in the Oakland County Circuit Court, and assigned to Judge Edward Sosnick.

According to the complaint, Mr. Polselli (83 years of age) was riding his motorcycle, travelling on Maple Road on May 1, 2020. He alleges that there was a barrier between the two travel lanes, and when trying to change lanes, he lost control of his bike. Alliance Mobile Health treated him at the scene for moderate road rash, and released him. He now argues that he sustained debilitating injuries, with a possible closed head injury. He claims that there was construction in this area, which is why he named Pro Line Asphalt as a defendant. Maple is under the jurisdiction of the Oakland County Road Commission.

The complaint asserts negligence claims of failing to maintain the roadway in reasonable repair. He argues that governmental immunity is not applicable, and he seeks damages in excess of \$25,000.

The proposed resolution authorizes the City Attorney's Office to represent the City's interests. Please let us know if you have any questions or concerns.

Approved, SCAO

Original - Court  
1st copy - Defendant2nd copy - Plaintiff  
3rd copy - Return

STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY PROBATE	SUMMONS	CASE NO. 21-188625-NI
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Court address  
1200 N. TELEGRAPH RD. PONTIAC, MI 48341Court telephone no.  
248-858-0344Plaintiff's name(s), address(es), and telephone no(s).  
ANDREW POLSELLIDefendant's name(s), address(es), and telephone no(s).  
CITY OF TROY, a Michigan Municipal Corporation

v

Plaintiff's attorney, bar no., address, and telephone no.  
KATE L. KASPEREK (P77349)  
4000 TOWN CENTER, STE. 1350  
SOUTHFIELD, MI 48075This case has been designated as an eFiling case, for  
more information please visit [www.oakgov.com/efiling](http://www.oakgov.com/efiling).

Instructions: Check the items below that apply to you and provide any required information. Submit this form to the court clerk along with your complaint and, if necessary, a case inventory addendum (form MC 21). The summons section will be completed by the court clerk.

**Domestic Relations Case**

- ☐ There are no pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.
- ☐ There is one or more pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint. I have separately filed a completed confidential case inventory (form MC 21) listing those cases.
- ☐ It is unknown if there are pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.

**Civil Case**

- ☐ This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.
- ☐ MDHHS and a contracted health plan may have a right to recover expenses in this case. I certify that notice and a copy of the complaint will be provided to MDHHS and (if applicable) the contracted health plan in accordance with MCL 400.106(4).
- ☒ 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 ☐ this court, ☐ \_\_\_\_\_ Court, where

it was given case number \_\_\_\_\_ and assigned to Judge \_\_\_\_\_.

The action ☐ remains ☐ is no longer pending.

Summons section completed by court clerk

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

Issue date 6/22/2021	Expiration date* 09/21/2021	Court clerk Lisa Brown
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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.

This case has been designated as an eFiling case, for more information please visit  
www.oakgov.com/efiling.

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

ANDREW POLSELLI,

Plaintiff,

2021-188625-NI

Case No. 21- -NI

Hon. JUDGE EDWARD SOSNICK

vs.

ROAD COMMISSION FOR OAKLAND COUNTY, a Michigan Entity,  
and CITY OF TROY, a Michigan Municipal Corporation,  
and PRO-LINE ASPHALT PAVING CORPORATION, a Michigan Corporation, Jointly  
and Severally,

Defendants.

\_\_\_\_\_  
STEVEN W. REIFMAN (P25208)  
KATE L. KASPEREK (P77349)  
Reifman Law Firm, P.L.L.C.  
Attorney for Plaintiff  
4000 Town Center, Suite 1350  
Southfield, MI 48075  
248-932-4000 Fax: 248-864-8405  
kkasperek@reifmanlawfirm.com  
kcavill@reifmanlawfirm.com  
\_\_\_\_\_

There is no other civil action arising out of the same transaction or  
occurrence as alleged in this Complaint pending in this court nor has there  
been previously filed and dismissed after having been assigned to a judge.

*/s/ Steven W. Reifman*

Steven W. Reifman, Attorney for Plaintiff

**COMPLAINT AND DEMAND FOR JURY TRIAL**

NOW COMES Plaintiff, by and through his Attorneys, Reifman Law Firm,  
P.L.L.C., and hereby files Plaintiff's Complaint as follows:

**Common Allegations**

1. That Plaintiff was at all times relative hereto a resident of Oakland  
County, in the State of Michigan.



2. That Defendant, Road Commission for Oakland County, (hereinafter referred to as "Defendant Oakland County Road Commission"), is a governmental entity conducting business in Michigan, and is otherwise doing business and/or established in the County of Oakland, State of Michigan.

3. That Defendant, City of Troy, (hereinafter referred to as "Defendant City of Troy"), is a governmental entity conducting business in Michigan, and is otherwise doing business and/or established in the County of Oakland, State of Michigan.

4. That Defendant, Pro-Line Asphalt Paving Corporation, (hereinafter referred to as "Defendant Asphalt"), is a Limited Liability Company conducting business in Michigan, and is otherwise doing business and/or established in the County of Oakland, State of Michigan.

5. That the occurrence complained of occurred on May 1, 2020, on Maple Rd. at or near the intersection of Leafgreen Drive in the City of Troy, County of Oakland, State of Michigan (hereinafter referred to as "the Highway").

6. That on or about the aforementioned date, Defendants either individually or by and through their agents, servants and/or employees either owned, maintained or controlled the Highway. and were responsible for maintaining the Highway in a reasonable repair so that it was reasonably safe and convenient for public travel.

7. That Defendants owed a duty to plaintiff and were responsible to maintain the Highway in a reasonable repair so that it was reasonably safe and convenient for public travel, pursuant to MCL 691.1402 (Public Highway Exception to Governmental Immunity).

8. That on or about the aforementioned date, Plaintiff was the driver and operator of a motorcycle, traveling eastbound on Maplewood St., at or near its intersection with Leafgreen Dr., in the City of Troy, County of Oakland, State of Michigan.

9. That the Highway was under construction by the direction and under control of Defendants either individually or by and through their agents, servants and/or employees.

10. That the construction created a defect on the Highway, specifically an uneven road condition that was unreasonably dangerous and unfit for public travel.

11. That the road defect on the Highway was not properly marked or flagged in a way as to adequately warn motorists of its danger.

12. That the defect in the Highway caused Plaintiff to crash and fall off his motorcycle and greatly injuring himself.

13. That Plaintiff was not guilty of any negligence.

14. That Defendants were properly served with Notice on or about June 30, 2020.

15. That the damages suffered by the Plaintiff herein are in a dollar amount in excess of Twenty-Five Thousand (\$25,000.00) Dollars, exclusive of interest costs and attorney fees.

#### **COUNT I: NEGLIGENCE (PER SE) OF DEFENDANTS**

16. Plaintiff re-alleges and incorporates paragraphs 1 through 15 as though fully restated herein.

17. That it was the duty of Defendants to keep the public highway in a safe and suitable condition for all persons who came upon said Highway and is subject to

liability pursuant to MCL 691.1402 (Public Highway Exception to Governmental Immunity).

17.1 That the Defendants did not properly obtain a permit to repair or properly maintain the Highway, in violation of statute and/or ordinance, making their negligence per se a violation of law.

18. At the aforesaid time and place, the Defendants, as a maintainer of the Highway, either individually or by and through their agents, servants and/or employees, disregarded their duties to keep the Highway safe and or with marked warnings, and either acted (or failed to act) with less than reasonable care and was then and there guilty of one or more of the following careless and negligent acts and/or omissions:

- a. Failed to repair, maintain, operate and/or control the Highway in the County of Oakland, and in the State of Michigan such it created an unreasonably dangerous uneven road, thereby endangering the public thereon;
- b. Failed to adequately warn the public of the aforementioned uneven road, including Plaintiff;
- c. Failed to warn the Plaintiff and other persons lawfully on said public highway of the dangerous condition when Defendants knew or should have known in the exercise of ordinary care that said warning was necessary to prevent injury to the Plaintiff.
- d. Failed to make a reasonable inspection of its public highway when it knew or in the exercise of ordinary care should have known that said inspection was necessary to prevent injury to the Plaintiff and others lawfully on said premises.
- e. Allowed the aforementioned public highway to remain in an unreasonably dangerous condition, unfit for passage, for an unreasonable length of time.
- f. Failed to comply with any and all ordinances, statutes and/or common law applicable to the repair, maintenance, operation and control of the aforementioned intersection;
- g. Failed to adequately illuminate the Highway;
- h. Was otherwise careless and negligent in the operation and maintenance of its public highway.
- i. Any and all other culpable conduct; Plaintiff specifically reserves the right to amend this section to conform with the proofs;

19. That Plaintiff sustained personal injuries as a direct and proximate result of the negligence of Defendants as herein alleged.

20. That as a direct result and proximate result of the negligence of Defendants, their agents, servants and/or employees either real or ostensible, as aforesaid, the Plaintiff:

- a. sustained severe bodily injuries which were painful, disabling, and necessitated medical care;
- b. suffered shock and emotional damage;
- c. sustained possible aggravation of pre-existing conditions and/or reactivation of dormant conditions;
- d. was and/or may continue to be unable to attend to his usual affairs and daily activities including, but not limited to, household chores, and personal needs;
- e. was unable to render services as formerly including, but not limited to, household chores, and personal needs;
- f. suffered from a loss of enjoyment of life and/or hampered Plaintiff in the enjoyment of the normal pursuit of life;
- g. sustained injuries that are permanent to the degree that Plaintiff suffered a loss in ability to earn money as before, and will have impaired earning capacity in the future;
- h. will continue to have pain and suffering in the future and impairment and disabilities as well as permanency;
- i. suffered mental anguish;
- j. suffered fright;
- k. suffered from embarrassment and humiliation;
- l. sustained any and all hedonic damages, both past and future;
- m. sustained injuries that are permanent and Plaintiff will continue to have said damages in the future; and/or
- n. sustained damages that are past and future;
- o. suffered excess economic damages, wage loss, and replacement services;
- p. sustained any other damages which are applicable and which are recoverable pursuant to statute, case law, and Michigan Court Rules.

21. That the amount in controversy herein exceeds the sum of Twenty-Five Thousand (\$25,000.00) Dollars.

WHEREFORE, Plaintiff prays that Plaintiff be awarded Judgment in Plaintiff's favor in regard to the various damages suffered from the various improper acts of



Defendants, in an amount in excess of Twenty-Five Thousand (\$25,000.00) Dollars. Further, Plaintiff prays that Plaintiff be awarded his costs and attorney fees so wrongfully incurred.

### COUNT II: NEGLIGENCE OF DEFENDANTS

22. Plaintiff realleges and incorporates paragraphs 1 through 21 as though fully restated herein.

23. That it was the duty of Defendants to keep the public highway in a safe and suitable condition for all persons who came upon the Highway.

24. That at the aforementioned time and place, Plaintiff was the victim of a severe motorcycle accident resulting from the negligent acts, maintenance, failure to mark and repair by Defendants regarding the subject road defect.

25. At the aforesaid time and place, the Defendants, as a maintainer of the Highway, either individually or by and through their agents, servants and/or employees, disregarded their duties to keep the Highway safe and or with marked warnings, and either acted (or failed to act) with less than reasonable care and was then and there guilty of one or more of the following careless and negligent acts and/or omissions:

- a. Failed to repair, maintain, operate and/or control the Highway in the County of Oakland, and in the State of Michigan such it created an unreasonably dangerous uneven road, thereby endangering the public thereon;
- b. Failed to adequately warn the public of the aforementioned uneven road, including Plaintiff;
- c. Failed to warn the Plaintiff and other persons lawfully on said public highway of the dangerous condition when Defendants knew or should have known in the exercise of ordinary care that said warning was necessary to prevent injury to the Plaintiff.
- d. Failed to make a reasonable inspection of its public highway when it knew or in the exercise of ordinary care should have known that said inspection was necessary to prevent injury to the Plaintiff and others lawfully on said premises.



- e. Allowed the aforementioned public highway to remain in an unreasonably dangerous condition, unfit for passage, for an unreasonable length of time.
- f. Failed to comply with any and all ordinances, statutes and/or common law applicable to the repair, maintenance, operation and control of the aforementioned intersection;
- g. Failed to adequately illuminate the Highway;
- h. Was otherwise careless and negligent in the operation and maintenance of its public highway.
- i. Any and all other culpable conduct; Plaintiff specifically reserves the right to amend this section to conform with the proofs;

26. That as a direct and proximate result of the negligence of Defendants, and the resulting injuries to Plaintiff, said Plaintiff sustained a serious impairment of a bodily function, as an objectively manifested impairment of an important body function that affects a person's ability to lead his normal life and/or a permanent, serious disfigurement, and/or a serious neurological defect (closed-head injury).

27. That as a direct result and proximate result of the negligence of Defendants, their agents, servants and/or employees either real or ostensible, as aforesaid, the Plaintiff:

- a. sustained severe bodily injuries which were painful, disabling, and necessitated medical care;
- b. suffered shock and emotional damage;
- c. sustained possible aggravation of pre-existing conditions and/or reactivation of dormant conditions;
- d. was and/or may continue to be unable to attend to his usual affairs and daily activities including, but not limited to, household chores, and personal needs;
- e. was unable to render services as formerly including, but not limited to, household chores, and personal needs;
- f. suffered from a loss of enjoyment of life and/or hampered Plaintiff in the enjoyment of the normal pursuit of life;
- g. sustained injuries that are permanent to the degree that Plaintiff suffered a loss in ability to earn money as before, and will have impaired earning capacity in the future;
- h. will continue to have pain and suffering in the future and impairment and disabilities as well as permanency;
- ii. suffered mental anguish;
- q. suffered fright;
- r. suffered from embarrassment and humiliation;

- s. sustained any and all hedonic damages, both past and future;
- t. sustained injuries that are permanent and Plaintiff will continue to have said damages in the future; and/or
- u. sustained damages that are past and future;
- v. suffered excess economic damages, wage loss, and replacement services;
- w. sustained any other damages which are applicable and which are recoverable pursuant to statute, case law, and Michigan Court Rules.

28. That the amount in controversy herein exceeds the sum of Twenty-Five Thousand (\$25,000.00) Dollars.

WHEREFORE, your Plaintiff prays for damages in his favor and against the Defendants, in whatever amount Plaintiff is found to be entitled, together with interest, costs, and attorney's fees.

Respectfully submitted,



By: /s/ Steven W. Reifman

Steven W. Reifman (P25208)  
Attorney for Plaintiff  
4000 Town Center – Suite 1350  
Southfield, Michigan 48075  
248.932.4000

Dated: June 21, 2021

This case has been designated as an eFiling case, for more information please visit  
www.oakgov.com/efiling.

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

ANDREW POLSELLI,

Plaintiff,

2021-188625-NI  
Case No. 21- -NI  
Hon. JUDGE EDWARD SOSNICK

vs.

ROAD COMMISSION FOR OAKLAND COUNTY, a Michigan Entity,  
And CITY OF TROY, a Michigan Municipal Corporation,  
and PRO-LINE ASPHALT PAVING CORPORATION, a Michigan Corporation, Jointly and  
Severally,

Defendants.

\_\_\_\_\_  
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KATE L. KASPEREK (P77349)  
Reifman Law Firm, P.L.L.C.  
Attorney for Plaintiff  
4000 Town Center, Suite 1350  
Southfield, MI 48075  
248-932-4000 Fax: 248-864-8405  
[kkasperek@reifmanlawfirm.com](mailto:kkasperek@reifmanlawfirm.com)  
[kcavill@reifmanlawfirm.com](mailto:kcavill@reifmanlawfirm.com)  
\_\_\_\_\_

DEMAND FOR JURY TRIAL

NOW COMES the Plaintiff, by and through Plaintiff's attorneys, REIFMAN  
LAW FIRM, P.L.L.C., and hereby demands a trial by jury of the within cause.

Respectfully submitted,



By: /s/ Steven W. Reifman  
Steven W. Reifman (P25208)  
Attorney for Plaintiff  
4000 Town Center – Suite 1350  
Southfield, Michigan 48075  
248.932.4000

Dated: June 21, 2021