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Entered - 05/31/00 - sb
CL00L0329 - DIANNE C. MITCHELL

00-R-0799

CLAIM OF: MARIETTA FENCE COMPANY,
through its attorney,
D. Kent Shelton
1650 Roswell Road
Marietta, Georgia 30062

For damages alleged to have been sustained as a
result of non-payment by the general contractor
on a project at the Slaton West Elementary
School.

THIS ADVERSED REPORT IS
APPROVED

BY: *Rosalind Rubens Newell*
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

ADVERSE REPORT

COM. *PS&LA*

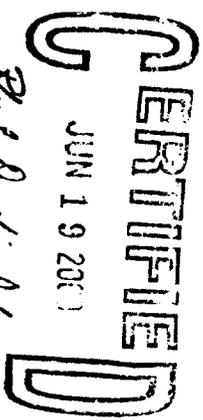
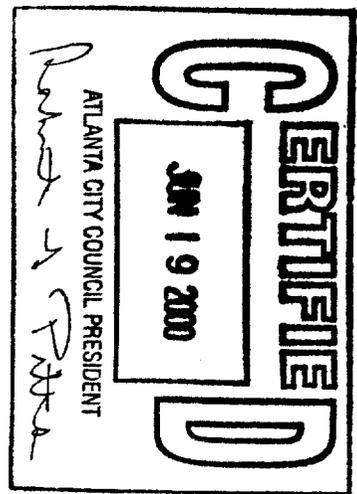
DATE *6/13/00*

BY: *C. T. Martin*

Cheta Sanders

William B...

[Signature]



ADVERSED BY JUN 19 2000
CITY COUNCIL



**CITY OF ATLANTA
OFFICE OF MUNICIPAL CLERK**

**RHONDA DAUPHIN JOHNSON, CMC
MUNICIPAL CLERK**

**55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30335
(404) 330-6033
FAX (404) 658-6103**

July 3, 2000

D. Kent Shelton
Attorney at Law
1650 Roswell Road
Marietta, GA 30062

00-R-0799

RE: Marietta Fence Company

Dear Attorney Shelton

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on June 19, 2000. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the City Attorney's Office/Claims Division at (404) 330-6400.

Yours very truly,

Rhonda Dauphin Johnson

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0329

Date: June 1, 2000

Claimant /Victim MARIETTA FENCE COMPANY, INC.
BY: (Atty) D. Kent Shelton
Address: 1650 Roswell Road, Marietta, Georgia 30062
Subrogation: Claim for Property damage \$ 14,030.00 Bodily Injury \$
Date of Notice: 05/24/00 Method: Written, proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence Not Stated Place: Slaton West Elementary School
Department Division:
Employee involved Disciplinary Action:

NATURE OF CLAIM: The claimant alleges it has not been paid by the general contractor for work performed at the above location. The investigation determined that this location is owned by the Atlanta Board of Education, which is a separate legal entity from the City of Atlanta. The claimant's attorney has been advised of the above.

INVESTIGATION:

Statements: City employee Claimant Others Written Oral
Pictures Diagrams Reports: Police Dept Report Other
Traffic citations issued: City Driver Claimant Driver
Citation disposition: City Driver Claimant Driver

BASIS OF RECOMMENDATION:

Function: Governmental Ministerial
Improper Notice More than Six Months Other Damages reasonable
City not involved X Offer rejected Compromise settlement
Repair/replacement by Ins. Co. Repair/replacement by City Forces
Claimant Negligent City Negligent Joint Claim Abandoned

Respectfully submitted,

[Signature]
INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01
Claims Manager: [Signature] Concur/date 06-01-00
Committee Action: Council Action

D. KENT SHELTON, P.C.

ATTORNEY AT LAW
1650 ROSWELL ROAD
MARIETTA, GEORGIA 30062

770-509-9510

M. Mitchell
05-30-00
[Signature]

FAX: 770-977-7346

May 18, 2000

Office of the Mayor
City of Atlanta
55 Trinity Avenue
Suite 2400
Atlanta, Georgia 30335

VIA CERTIFIED MAIL

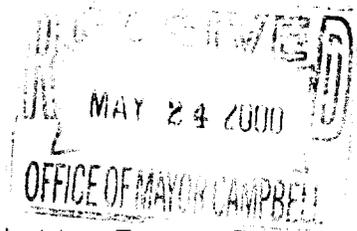
No. 7099 3400 0010 9998 4108-

ENTERED - 5-31-00 - SB

6 6116

00L0329 - DIANNE MITCHELL

Re: Marietta Fence Company, Inc. v DPS Industries, Inc.
APS Bond Funded
Bond Number: 5937779
Slaton-West Elementary School



Dear Sir or Madam:

Please be advised that I represent Marietta Fence Company. I am writing regarding the outstanding balance owed by DPS Industries, Inc. in the amount of \$14,030.00 plus interest to Marietta Fence Company, Inc. on the above-referenced project. DPS Industries is the general contractor on the Slaton-West Elementary School project.

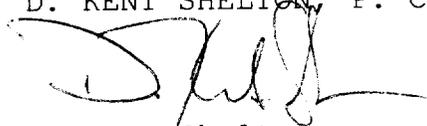
This correspondence shall serve as formal written notice that my client hereby makes a claim under the above-referenced payment bond for the payment of \$14,030.00 plus accrued interest, within 10 days or your receipt of this correspondence. If such payment is immediately made, all actions against the bond will cease. If payment is not immediately made, however, further legal action will be pursued in order to enforce the rights under the bond. Upon your receipt of this correspondence, please contact me and I will provide you with a payoff on this indebtedness.

I have enclosed copies of my client's contract with DPS and its invoice for said work.

Should you have further questions regarding this matter, please do not hesitate to contact me.

I look forward to receiving payment in the aforementioned time period.

Sincerely,
D. KENT SHELTON, P. C.



D. Kent Shelton

Enclosures as stated above.

cc: Marietta Fence Company, Inc.
First National Insurance Company
DPS Industries, Inc.
File

00-*R*-0799

RCS# 2016
6/19/00
2:32 PM

Atlanta City Council

Regular Session

Consent Agenda Pages (1 - 8)

SEE ATTACHED LISTING OF
ITEMS ADOPTED/ADVERSED
ON CONSENT AGENDA

ADOPT

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 2

Y McCarty	Y Dorsey	Y Moore	Y Thomas
Y Starnes	Y Woolard	Y Martin	Y Emmons
Y Bond	Y Morris	B Maddox	Y Alexander
B Winslow	Y Muller	Y Boazman	NV Pitts

ITEM (S) REMOVED FROM
CONSENT AGENDA
00-O-0795
00-R-0831

PRESIDENT PITTS RECUSED ON 00-
O-0756.
