

Entered - 6-19-98  
CL 98L0421-GWENDOLYN BURNS

CLAIM OF: LAURA LUZADER through her

attorney, Noel H. Benedict  
BENEDICT & SPIEGEL  
P.O. Box 1226  
Lawrenceville, Georgia 30046-1226

ADVERSE REPORT

COM *Public Safety*

DATE *6/27/00*

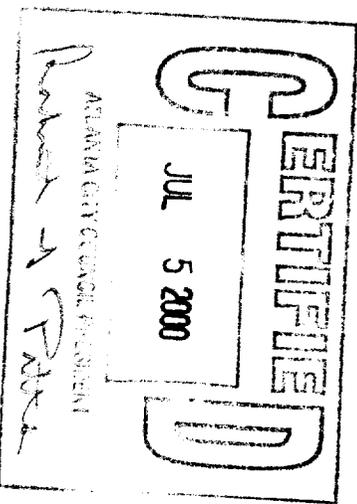
CHM. *C. T. Martin*

*[Signature]*  
*[Signature]*

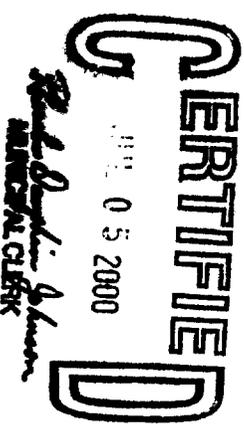
For damages alleged to have been sustained  
as a result of a bodily injury incident on  
April 24, 1998 at the City Municipal Court

THIS ADVERSED REPORT IS  
APPROVED

BY: *[Signature]*  
ROBERT N. GODFREY  
DEPUTY CITY ATTORNEY



ADVERSED BY  
CITY COUNCIL JUL 05 2000





## 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 18, 2000

Noel H. Benedict  
Attorney at Law  
P.O. Box 1226  
Lawrenceville, GA 30046-1226

00-R-0936

RE: Laura Luzader

Dear Mr. Benedict:

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 July 5, 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, CMC  
Municipal Clerk

cc: **Claims Division/Law Department**

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 98L0421

Date: June 14, 2000

Claimant /Victim LAURA LUZADER
BY: (Atty) (Ins. Co.) Noel H. Benedict, BENEDICT & SPIEGEL, ATTORNEYS AT LAW
Address: P.O. Box 1226, Lawrenceville, Georgia 30046-1226
Subrogation: Claim for Property damage \$ Bodily Injury \$ unspecified
Date of Notice: 6/19/98 Method: Written, Proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 4/24/98 Place: Municipal Court Holding Area
Department CORRECTIONS Division
Employee involved Disciplinary Action:

NATURE OF CLAIM: Claimant alleges that she sustained bodily injuries when Correction Officers used excessive force while detaining her in the detention center at the above location. However, a municipal corporation shall not be liable for the torts of policemen or other officers engaged in the discharge of the duties imposed on them by law as set forth in O.C.G.A. §36-33-3.

INVESTIGATION:

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

BASIS OF RECOMMENDATION:

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

Respectfully submitted,

Gwendolyn Burns
INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01
Claims Manager: Concur/date 06/15/00
Committee Action: Council Action

**BENEDICT & SPIEGEL**  
**ATTORNEYS AT LAW**  
PHONE (770) 277-4944 FAX (770) 277-4955

BURNS

06/19/98  
Gwen

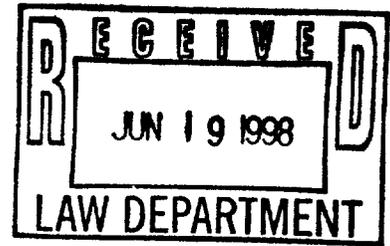
NOEL H. BENEDICT  
JODI ANN SPIEGEL

ENTERED - 6-19-98 - SB  
98L0421 - GWEN BURNS

P.O. BOX 1226, LAWRENCEVILLE, GA 30046-1226  
STREET ADDRESS: 405 SCENIC HIGHWAY

June 16, 1998

VIA CERTIFIED AND REGULAR MAIL  
Z 196 465 419



Mr. Rob Pitts  
President of City Council  
City of Atlanta  
55 Trinity Avenue  
Atlanta, GA 30339

RE: ANTE-LITEM NOTICE FOR PRESENTMENT OF CLAIM FOR LAURA  
LUZADER AGAINST CITY OF ATLANTA DEPARTMENT OF CORRECTIONS  
DATE OF INJURY: 04/24/98  
LOCATION OF INCIDENT: MUNICIPAL COURT HOLDING AREA  
170 GARNETT STREET  
ATLANTA, GA

Dear Mr. Pitts:

This firm has been hired to represent Mrs. Laura J. Luzader in the above-referenced claim. Pursuant to O.C.G.A. §36-33-5, this letter will serve as notice to the City of Atlanta as to the negligence on behalf of The City of Atlanta Department of Corrections that resulted in the above-referenced incident and the resulting claim.

On April 24, 1998, Mrs. Luzader was arrested at her home for failure to appear in the City of Atlanta Recorder's Court, which she did not receive notice of, on a housing code violation allegedly involving having junk cars in her yard, unpainted trim and a roof that needed repair. While in custody in the detention center behind courtroom #1, Mrs. Luzader was being held in a cell by herself that did not contain restroom facilities. Mrs. Luzader became in need of same. Mrs. Luzader repeatedly requested to be allowed to go to the restroom. After the passage of approximately one hour or more, someone came to get her out of the cell in which she was held in order for her to go into another cell where she could use the facilities. However, by that time, it was no longer necessary as Mrs. Luzader had urinated on herself as it had become physically impossible for her to contain her need any longer. The corrections officers then attempted to push her into the cell with the restroom facilities. Mrs. Luzader told the officers that she was going to go back into the original cell and turned to walk into that cell. At that point, three corrections officers, two males and one female, tackled her, twisted her arms behind her back in

order to handcuff her and in the process broke her arm. The officers kned her in her back and lifted her back on her feet via the handcuffs. Although Mrs. Luzader requested medical attention because she thought her arm was broken, medical attention was not forthcoming. After appearing in court and released, Mrs. Luzader went to South Fulton Emergency room where the arm was X-rayed and diagnosed as broken.

Mrs. Luzader suffered extreme physical pain and mental anguish as a result of this excessive use of force on someone who is 59 years old, weighs 135 pounds and is not a criminal and in fact, has never had a criminal conviction of any kind. Additionally, Mrs. Luzader was placed in an untenable position and understandably upset and humiliated by not being able to use restroom facilities and suffered the extreme anguish as a result of urinating on herself.

I have not yet received the medical records or bills from the treating hospital and physician therefore the scope of Mrs. Luzader's injuries have not yet fully been determined. I have however, enclosed a copy of the Citizen Complaint Statement that she filed with the Office of Corrections. Once I am in receipt of Mrs. Luzader's records and have a clearer picture of the extent of her injuries, I will forward them to you. This will serve as Mrs. Luzader's presentment of her claim. Please contact me upon receipt of this letter so we can further discuss resolution of this matter.

Yours very truly,



Noel H. Benedict

NHB:ev

Enclosure

00- R -0936

RCS# 2057  
7/05/00  
1:38 PM

Atlanta City Council

Regular Session

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Consent Agenda pgs. 1-13

SEE ATTACHED LISTING OF  
ITEMS ADOPTED/ADVERSED  
ON CONSENT AGENDA

Adopt

YEAS: 11  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 2  
EXCUSED: 0  
ABSENT 3

NV McCarty  
Y Starnes  
Y Bond  
B Winslow

Y Dorsey  
Y Woolard  
Y Morris  
Y Muller

Y Moore  
Y Martin  
Y Maddox  
Y Boazman

Y Thomas  
B Emmons  
B Alexander  
NV Pitts

ITEM (S) REMOVED FROM  
CONSENT AGENDA  
00-O-0982  
00-O-0996  
00-R-0954  
00-R-0981  
00-R-0999

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<b>07/05/00 Council Meeting</b>	
<b>ITEMS ADOPTED ON CONSENT AGENDA</b>	<b>ITEMS ADVERSED ON CONSENT AGENDA</b>
1. 00-O-0882	38. 00-R-0914
2. 00-O-0815	39. 00-R-0915
3. 00-O-0986	40. 00-R-0916
4. 00-O-0987	41. 00-R-0917
5. 00-O-0988	42. 00-R-0918
6. 00-O-1002	43. 00-R-0919
7. 00-O-0574	44. 00-R-0920
8. 00-O-0972	45. 00-R-0921
9. 00-O-0818	46. 00-R-0922
10. 00-R-0990	47. 00-R-0923
11. 00-R-0992	48. 00-R-0924
12. 00-R-0993	49. 00-R-0925
13. 00-R-0885	50. 00-R-0926
14. 00-R-0884	51. 00-R-0927
15. 00-R-0883	52. 00-R-0928
16. 00-R-0880	53. 00-R-0929
17. 00-R-0814	54. 00-R-0930
18. 00-R-0957	55. 00-R-0931
19. 00-R-0961	56. 00-R-0932
20. 00-R-0998	57. 00-R-0933
21. 00-R-0887	58. 00-R-0934
22. 00-R-0888	59. 00-R-0935
23. 00-R-0889	60. 00-R-0936
24. 00-R-0997	61. 00-R-0937
25. 00-R-0892	62. 00-R-0938
26. 00-R-0955	63. 00-R-0939
27. 00-R-0984	64. 00-R-0940
28. 00-R-1000	65. 00-R-0941
29. 00-R-0908	66. 00-R-0942
30. 00-R-0909	67. 00-R-0943
31. 00-R-0910	68. 00-R-0947
32. 00-R-0911	69. 00-R-0948
33. 00-R-0912	70. 00-R-0949
34. 00-R-0913	71. 00-R-0950
35. 00-R-0944	72. 00-R-0951
36. 00-R-0945	
37. 00-R-0946	