

CL 9910198 - GWENDOLYN BURNS

CLAIM OF: LAVON MCCORD

on behalf of her deceased husband,

Tracy McCord, through her attorney

Michael A. Sullivan

Finch, McCranie, Brown, Hendrix & Sullivan

225 Peachtree Street, NE

1700 South Tower

Atlanta, GA 30303

For damages alleged to have been sustained as a result of a wrongful death incident on October 2, 1998 at the construction site of the new Atlanta Arena.

CONSENT AGENDA

THIS ADVERSED REPORT IS APPROVED

BY: Rosalind Rubens Newell

ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

ADVISED REPORT

COM: Public Safety

DATE: 8/15/2000

CHD: C. T. M... ..

[Handwritten signatures]

ADVERSED BY
CITY COUNCIL

SEP 05 2000

CERTIFIED
SEP 05 2000
Rosalind Rubens Newell
MUNICIPAL CLERK

SEP 5 2000
MUNICIPAL CLERK



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

September 18, 2000

Finch, MCranie, Brown, Hendrix & Sullivan
Attorneys at Law
225 Peachtree St., NE
1700 South Tower
Atlanta, GA 30303

00-R-1264

RE: Lavon McCord on behalf of her
deceased husband, Tracy McCord

Dear Attorney Sullivan:

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 January 03, 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. 98L0198

Date: August 3, 2000

Claimant /Victim LAVON McCORD, on behalf of her deceased husband, TRACY McCORD
BY: (Atty) (Ins. Co.) Michael A. Sullivan, Esq., FINCH, McCRANIE, BROWN, HENDRIX & SULLIVAN
Address: 225 Peachtree Street, NE, 1700 South Tower, Atlanta, Georgia 30303
Subrogation: Claim for Property damage \$ Bodily Injury \$ unspecified
Date of Notice: 4/2/99 Method: Written, Proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 10/2/98 Place: One CNN Center - Phillips Arena
Department Division
Employee involved Disciplinary Action:

NATURE OF CLAIM: Claimant alleges that she sustained damages as a result of the wrongful death of her husband during the construction of Phillips Arena. However, an investigation determined that the City was not involved in that project and the claimant has filed a lawsuit against the appropriate parties to resolve the issues of her claim.

INVESTIGATION:

Statements: City employee Claimant Others Written Oral
Pictures Diagrams Reports: Police Dept Report Other X
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 X 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 - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ Adverse X account charged: 1A01 2J01 2H01
Claims Manager: [Signature] Concur/date 99L0198
Committee Action: Adverse 40 CC on 9/5/00 Council Action

LAW OFFICES

**FINCH, McCRANIE, BROWN,
HENDRIX & SULLIVAN**

CHARLES E. McCRANIE
ELLIS RAY BROWN
RICHARD W. HENDRIX
MICHAEL A. SULLIVAN
DAVID E. NAYLOR
BRIAN D. ROGERS

BAXTER H. FINCH
(1924-1995)

A Limited Liability Partnership
225 PEACHTREE STREET, N.E.
1700 SOUTH TOWER
ATLANTA, GEORGIA 30303
(404) 658-9070

www.finchmccranie.com

**ENTERED - 4-6-99 - SB
99L0198 - GWEN BURNS**

March 30, 1999

BURNS
04/02/99
an

FAX: (404) 688-0649
WATS: 1 (800) 228-9159

JONESBORO OFFICE
118 SOUTH MAIN STREET
JONESBORO, GEORGIA 30236
(770) 471-8477

**BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED
AND BY HAND DELIVERY**

Atlanta-Fulton County Recreation Authority
c/o Davetta Johnson Mitchell, Executive Director
755 Hank Aaron Drive, S.W.
Atlanta, Georgia 30315

**BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED
AND BY HAND DELIVERY**

City of Atlanta
c/o Honorable Bill Campbell
Mayor's Office
City Hall
55 Trinity Avenue, S.W.
Atlanta, Georgia 30335

Re: Claims based on injuries, damages, and death of Tracy McCord on
October 2, 1998, at new Atlanta Arena site

Ladies and Gentlemen:

This firm represents Lavon McCord, the widow of Tracy McCord, with respect to claims arising from the injuries, damages, and wrongful death sustained by Tracy McCord at the construction site of the new Atlanta Arena shortly after 8:00 p.m. on October 2, 1998. Mr. McCord was killed when a pre-fabricated concrete row and section of the upper deck, which was to have been a spectator seating area and walkway, collapsed beneath him and fell to the Arena floor. It is our understanding that the Atlanta-Fulton County Recreation Authority and the City of Atlanta may be among the owners of the Atlanta Arena.

This letter is a written demand and ante-litem notice of claims to each municipal

Atlanta-Fulton County Recreation Authority
City of Atlanta
March 30, 1999
Page Two

corporation and entity listed above as a prerequisite to an action to recover for the wrongful death of Mr. McCord, and for the injuries and damages to Mr. McCord which the representative of Mr. McCord's Estate is entitled to recover. Mr. McCord was only 33 years old when he was killed, and he had a life expectancy of an additional 41 years. The damages at issue in the wrongful death claim include the full value of the life of Mr. McCord. The damages that his Estate is entitled to recover include Mr. McCord's mental and physical pain and suffering, including pre-impact shock, fright and terror; medical, funeral, and burial expenses; property damage; and punitive damages.

The acts of negligence include negligence in selection and authorization of an inherently unsafe design of these areas of the Arena, in selection of materials used, in failure to provide adequate instructions, in failure to warn of dangers, in exposing workers to latent dangers, in scheduling work, in supervision, in manner of construction, in testing, in quality assurance and quality control, in failures to exercise ordinary care, as well as professional negligence. To the extent that the Atlanta-Fulton County Recreational Authority and/or the City of Atlanta breached one or more of those duties, either directly or through agents or servants, they are liable for the injuries and damages of Mr. McCord and the wrongful death of Mr. McCord.

Pursuant to O.C.G.A. § 36-33-5, this letter presents these claims in writing to the governing authority of the municipal corporation for adjustment. We ask that you consider and act upon these claims within thirty (30) days, as specified in the statute.

We are serving this letter on each of you as a demand and notice to each governing authority over the agencies and authorities that have, or may be claimed to have, jurisdiction over the Arena. If for any reason you contend that we have not notified the correct entities, please inform us in writing as to what other entities, agencies, authorities or bodies you contend may be responsible.

Sincerely,



Michael A. Sullivan

MAS/rd

cc: Clifford E. Hardwick, IV (by hand delivery and by facsimile: 404/658-6894)
City Attorney
68 Mitchell Street, S.W.
Atlanta, Georgia 30335-0332

00- -1264

RCS# 2194
9/05/00
2:17 PM

Atlanta City Council

Regular Session

CONSENT

Pages: 1-12

Adopt

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 0

SEE ATTACHED LISTING OF
ITEMS ADOPTED/ADVERSED
ON CONSENT AGENDA

Y McCarty
Y Starnes
NV Bond
Y Winslow

Y Dorsey
NV Woolard
Y Morris
Y Muller

Y Moore
Y Martin
Y Maddox
Y Boazman

Y Thomas
Y Emmons
Y Alexander
NV Pitts

ITEM (S) REMOVED FROM
CONSENT AGENDA
00-O-1007
00-R-1309

CONSENT

09/05/00 Council Meeting	
ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADVERSED ON CONSENT AGENDA
1. 00-O-1102	40. 00-R-1235
2. 00-O-1143	41. 00-R-1245
3. 00-O-1207	42. 00-R-1246
4. 00-O-1295	43. 00-R-1247
5. 00-O-1303	44. 00-R-1248
6. 00-O-1313	45. 00-R-1249
7. 00-O-1124	46. 00-R-1250
8. 00-O-1125	47. 00-R-1251
9. 00-O-1126	48. 00-R-1252
10. 00-O-1127	49. 00-R-1253
11. 00-O-1128	50. 00-R-1254
12. 00-O-1133	51. 00-R-1255
13. 00-O-1196	52. 00-R-1256
14. 00-O-1298	53. 00-R-1257
15. 00-O-1122	54. 00-R-1258
16. 00-O-1300	55. 00-R-1259
17. 00-R-1198	56. 00-R-1260
18. 00-R-1230	57. 00-R-1261
19. 00-R-1290	58. 00-R-1262
20. 00-R-1312	59. 00-R-1263
21. 00-R-1316	60. 00-R-1264
22. 00-R-1265	
23. 00-R-1266	
24. 00-R-1267	
25. 00-R-1268	
26. 00-R-1270	
27. 00-R-1314	
28. 00-R-1229	
29. 00-R-1233	
30. 00-R-0886	
31. 00-R-1236	
32. 00-R-1237	
33. 00-R-1238	
34. 00-R-1239	
35. 00-R-1240	
36. 00-R-0241	
37. 00-R-1242	
38. 00-R-1243	
39. 00-R-1244	