Entered -9-28-00 - sb

00- R -1761

CL 00L0592 - GWENDOLYN BURNS

CLAIM OF: **LEROY PALMER**
through his attorney,
Robert Kenner, Jr.
Attorney at Law
P.O. Box 762
Lithonia, Georgia 30058

For damages alleged to have been sustained as a result of a false arrest and imprisonment incident on June 16, 2000 at 723 Kennedy Street, NW.

THIS ADVERSED REPORT IS
APPROVED

BY: _____
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

CONSENT AGENDA

ADVERSED BY CITY COUNCIL NOV 06 2000

OVERSE REPORT
M. Public Safety
E 10/31/00
V-C. Clela Winslow

CERTIFIED
NOV 6 2000
ATLANTA CITY COUNCIL PRESIDENT

CERTIFIED
NOV 06 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

November 15, 2000

Robert Kenner, Jr.
Attorney at Law
P.O. Box 762
Lithonia, GA 30058

00-R-1761

RE: Leroy Palmer

Dear Attorney Kenner:

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. 00L0592 Date: October 20, 2000

Claimant /Victim **LEROY PALMER**
BY: (Atty) (Ins. Co.) Robert Kenner, Jr., Attorney at Law
Address: P.O. Box 762, Lithonia, Georgia 30058-0762
Subrogation: _____ Claim for Property damage $_____ Bodily Injury $ unspecified
Date of Notice: 9/25/00 Method: Written, Proper X Improper _____
Conforms to Notice: O.C.G.A. §36-33-5 _____ Ante Litem (6 Mo.)_____
Date of Occurrence 6/16/00 Place: 723 Kennedy Street, NW
Department POLICE Division_____
Employee involved M. B. Bizell, A. Jewell Disciplinary Action: _____

NATURE OF CLAIM: Claimant alleges that he sustained damages when he was maliciously prosecuted, falsely accused, arrested and imprisoned by Officers Bizell and Jewell. 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. Section 36-33-3.

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 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,

INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay $ _____ Adverse X Account charged: 1A01_____ 2J01_____ 2H01_____
Claims Manager: _____ Concur/date 10-20-00
Committee Action: _____ Council Action _____

FORM 23-61

LAW OFFICES OF

ROBERT KENNER, JR.

6835 Main Street
P.O. Box 762
Lithonia, Georgia 30058-0762
Phone: (678) 526-8888
Fax: (678) 526-8889

Entertainment Law:
Movies, Music, Literary Publishing
Contract Negotiations
Criminal Law
Personal Injury

BURNS 09/26/00

September 20, 2000

VIA CERTIFIED MAIL # Z 399 495 825

ENTERED - 9-28-00 - SB
00L0592 - GWEN BURNS

Susan Pease Langford, Esq.
Atlanta City Attorney
68 Mitchell Street, SW, Suite 4100
Atlanta, Georgia 30335

RE: Notice of Claim against the City of Atlanta Police Department
Date of Arrest : June 16, 2000
Claimants/Our Clients: Gerald B. Morgan and Leroy Palmer

Dear Ms. Langford:

This letter shall serve as Gerald B. Morgan and Leroy Palmer's written notice to the City of Atlanta Police Department (Atlanta) pursuant to O.C.G.A. § 36-33-5 that they are asserting a claim against it for violation of their rights under State and Federal law.

On June 16, 2000, between the hours of 11:15 a.m. and 12:15p.m., Mr. Morgan and Mr. Palmer were standing behind a rooming house, which is located at 723 Kennedy Street, Atlanta, Georgia. Mr. Morgan owns a black 1987 Chevrolet Capri, which was parked in back of the rooming house. One of the residences of the property gave Mr. Morgan permission to park his car at the house. Mr. Morgan parked his car at the house because the car would be safe and off the street.

While Mr. Morgan and Mr. Palmer were standing near the car, Officer M. B. Bizell approached them. Officer Bizell asked Mr. Morgan and Mr. Palmer where they lived. Mr. Morgan told the officer he lived in the apartment complex, across the street and Mr. Palmer was visiting him. The officer asked why they were standing there and Mr. Morgan explained they were getting something out of his car. The officer asked Mr. Morgan if he had permission from the owner of the property to park his car there and Mr. Morgan said he did. The officer stated that he (the officer) knew the owner of the property and he did not believe that the owner gave Mr. Morgan such permission. Officer Bizell then asked Mr. Morgan and Mr. Palmer for their names, which they complied. After receiving their names, the officer drove away. Moments later, Officer Bizell returned. Officer A. Jewell and Sergeant J.W. Cooper accompanied him. Officers Bizell and Jewell got out of their police car with their weapons drawn and pointing at Mr.

Morgan and Mr. Palmer. The officers used expletives and demanded Mr. Morgan and Mr. Palmer raise their hands, which they did.

Officer Bizell placed Mr. Morgan against his (Mr. Morgan) car and proceeded to search him. Officer Jewell approached Mr. Palmer and slammed him against the car, kicked and elbowed him, and forced him to the ground on his knees. Mr. Morgan asked Officer Bizell what was going on and he (Officer Bizell) told Mr. Morgan to shut up and placed Mr. Palmer and him in a patrol car. Officer Bizell accused Mr. Morgan and Mr. Palmer of being drug dealers and standing in a drug zone. Mr. Morgan and Mr. Palmer told the officer they were not drug dealers and they had permission to be where they were.

Mr. Morgan summoned the owner of the property, John McNeil, to come over to speak with the officers. Mr. McNeil was also accused by Sgt. J. W. Cooper of being a drug dealer. When Mr. McNeil attempted to explain to the officer about the car being on his property, he was assaulted by one of the officers and told if he did not press charges against Mr. Morgan and Mr. Palmer, he (Mr. McNeil) would be arrested. Mr. McNeil was also told that if he did not appear in court regarding this incident, he would be arrested.

Mr. Morgan and Mr. Palmer were cited and arrested for criminal trespass. Mr. Morgan and Mr. Palmer remained in jail for two days before they made bond. The charges against them were subsequently dismissed at the preliminary hearing.

Mr. Morgan, Mr. Palmer, Mr. McNeil, and Marc A. Starks filed a complaint with the Atlanta Police Department Internal Affairs. The status of the complaints is unknown at the current time.

Mr. Morgan and Mr. Palmer were maliciously prosecuted, falsely accused, arrested, and imprisoned. As a result of the actions by the officers, Mr. Morgan and Mr. Palmer have suffered economic loss as well as emotional stress.

Mr. Morgan and Mr. Palmer are entitled to recover for general, specific and punitive damages. The amount claimed is not less than $10,000.00 each.

Mr. Morgan and Mr. Palmer specifically reserve the right to amend this notice, pursue other theories of liability as more details become available through their investigation or through the litigation of this matter should it becomes necessary.

Please direct all future correspondence to this office and contact me if you have any questions.

Sincerely,

Robert Kenner, Jr.
RKJ/dfh

00- R -1761

c: Gerald Morgan
Leroy Palmer

RCS# 2356
11/06/00
2:45 PM

Atlanta City Council

Regular Session

CONSENT

Pages 1-17

ADOPT

YEAS:	14
NAYS:	0
ABSTENTIONS:	0
NOT VOTING:	1
EXCUSED:	0
ABSENT	1

SEE ATTACHED LISTING OF ITEMS ADOPTED/ADVERSED ON CONSENT AGENDA

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

ITEM (S) REMOVEDFROM
CONSENT AGENDA
00-R-1422
00-R-1666

CONSENT

		11/06/00 Council Meeting
ITEMS ADOPTED ON CONSENT AGENDA	**ITEMS ADVERSED ON CONSENT AGENDA**	**ITEMS ADVERSED ON CONSENT AGENDA**
1. 00-O-1577 2. 00-O-1586 3. 00-O-1615 4. 00-O-1661 5. 00-O-1663 6. 00-O-1670 7. 00-R-1578 8. 00-R-1685 9. 00-R-1780 10. 00-R-1659 11. 00-R-1688 12. 00-R-1689 13. 00-R-1704 14. 00-R-1722 15. 00-R-1723 16. 00-R-1708 17. 00-R-1774 18. 00-R-1709 19. 00-R-1710 20. 00-R-1711 21. 00-R-1712 22. 00-R-1713 23. 00-R-1714 24. 00-R-1715 25. 00-R-1717 26. 00-R-1718 27. 00-R-1719 28. 00-R-1720 29. 00-R-1721	30. 00-R-1716 31. 00-R-1724 32. 00-R-1725 33. 00-R-1727 34. 00-R-1728 35. 00-R-1729 36. 00-R-1730 37. 00-R-1731 38. 00-R-1732 39. 00-R-1733 40. 00-R-1734 41. 00-R-1735 42. 00-R-1736 43. 00-R-1737 44. 00-R-1738 45. 00-R-1739 46. 00-R-1740 47. 00-R-1741 48. 00-R-1742 49. 00-R-1743 50. 00-R-1744 51. 00-R-1745 52. 00-R-1746 53. 00-R-1747 54. 00-R-1748 55. 00-R-1749 56. 00-R-1750 57. 00-R-1751 58. 00-R-1752	59. 00-R-1753 60. 00-R-1754 61. 00-R-1755 62. 00-R-1756 63. 00-R-1757 64. 00-R-1758 65. 00-R-1759 66. 00-R-1760 67. 00-R-1761 68. 00-R-1762 69. 00-R-1763 70. 00-R-1764 71. 00-R-1765 72. 00-R-1766 73. 00-R-1767 74. 00-R-1768 75. 00-R-1769 76. 00-R-1770 77. 00-R-1771 78. 00-R-1772 79. 00-R-1773