

00-R-1763

Entered - 08/28/00 - sb  
CL00L0499 - DIANNE C. MITCHELL

CLAIM OF: **THE FAMILY OF ALVENO HORTON, deceased,**  
through their attorney,  
Jodi S. Dick  
Suite 400  
235 Peachtree Street  
Atlanta, Georgia 30303

For damages alleged to have been sustained as a result of the wrongful death of Alveno Horton on February 19, 2000 at Roy and Coleman Streets.

THIS ADVERSED REPORT IS APPROVED

BY: Rosalind Rubens Newell  
ROSALIND RUBENS NEWELL  
DEPUTY CITY ATTORNEY

**ADVERSE REPORT**

**CONSENT AGENDA**

COM. Public Safety

ADVERSED BY  
CITY COUNCIL NOV 06 2000

DATE 10/31/00

Cleta Hinson  
Derry  
Wendell  
James  
Kerry

**CERTIFIED**  
NOV 6 2000  
ATLANTA CITY COUNCIL PRESIDENT  
John A. Park

**CERTIFIED**  
NOV 06 2000  
Rhonda Daphin Johnson  
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 16, 2000

Jodi S. Dick  
Attorney at Law  
235 Peachtree St.  
Suite 400  
Atlanta, GA 30303

00-R-1763

RE: The Family of Alveno Horton, deceased

Dear Attorney Dick:

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. 00L0499

Date: October 19, 2000

Claimant /Victim THE FAMILY OF ALVENO HORTON, deceased
BY: (Atty) Jodi S. Dick
Address: Suite 400, 235 Peachtree Street, Atlanta, Georgia 30303
Subrogation: Claim for Property damage \$ Bodily Injury \$ Not Stated
Date of Notice: 08/21/00 Method: Written, proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 02/19/00 Place: Roy and Coleman Streets
Department Police Division:
Employee involved Officer A. C. Smith Disciplinary Action: None

NATURE OF CLAIM: The claimant's alleges that their family member was wrongfully killed during an altercation with a police officer. An investigation by the Office of Professional Standards found no evidence to support any violation of the Police Rules by Officer Smith. Furthermore, the City is immune from liability as set forth in O.C.G.A. §36-33-3.

INVESTIGATION:

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

[Signature]
INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01
Claims Manager: [Signature] Concur/date 10-19-00
Committee Action: Council Action

*Dianne*

**JODI S. DICK**  
ATTORNEY AT LAW

*MT Mitchell*  
*08/21/00*  
*[Signature]*

SUITE 400  
235 PEACHTREE STREET  
ATLANTA, GEORGIA 30303

TELEPHONE: 404-524-0966  
FACSIMILE: 404-524-7732  
VOICE MAIL: 770-734-7769

August 15, 2000

**ENTERED - 8-28-00 - SB**  
**00L0499 - DIANNE MITCHELL**

Certified Mail No. 70993400000832933576

City of Atlanta  
c/o Honorable Bill Campbell  
Mayor  
68 Mitchell St. S.W., Suite 2400  
Atlanta, Ga. 30335

Certified Mail No. 70993400000832933569

City of Atlanta  
c/o Robert L. Pitts  
Pres., Atlanta City Council  
55 Trinity Ave.  
Atlanta, Ga. 30335

Dear Mayor Campbell and Mr. Pitts:

Kimberly Dymecki and I represent the family of Alveno Horton in regard to claims of assault and battery, wrongful death and excessive use of force (and whatever additional claims we determine to be appropriate) against certain City of Atlanta Police Officers, the City of Atlanta Police Department and the City of Atlanta. This notice is being provided to you pursuant to the provisions of the Official Code of Ga. Ann. §36-33-5 for the purpose of advising you of our factual allegations and to give you an early opportunity to resolve these claims.

Alveno Horton was a 34 year old black male who was shot and killed by APD Officer Anthony Smith on or about February 19, 2000 at approximately 1:30 a.m. According to the police report prepared by Officer Smith, Officer Smith was chasing Mr. Horton on foot (in the vicinity of Roy Street and Coleman Street in the City of Atlanta) because he had fled from an alleged hit and run accident nearby. After Mr. Horton was apprehended, Officer Smith reported that "the suspect attempted to grab my weapon and being in fear of my life, a round was discharged." A copy of this report is attached.

We are still in the process of investigating this claim and had hoped to have obtained much more information by this time. We have received reports from the GBI and we have been awaiting the receipt of the Internal Affairs report prepared by APD (OPS), which was requested some time ago. However, in order to comply with the time restrictions imposed by O.C.G.A. 36-33-5, we are forwarding this notice to you now for consideration.

Mayor Campbell / Robert Pitts

August 15, 2000

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We believe that the officer involved in this matter used excessive force and either (1) failed to follow police procedures including, but not limited to use and handling of firearms and the use of deadly force or (2) was inadequately trained on the use of non deadly force and proper techniques when facing a situation as set forth herein. Because we have not yet been able to interview Officer Smith, we have not been able to determine exactly why he acted in the manner in which he did.

The within notice relating to the negligence of the City of Atlanta and its police force in failing to adequately train its police officers on proper techniques to be used in securing a suspect and alternatives to the use of deadly force is being provided to you with the understanding that you shall consider and act upon this claim within thirty (30) days from the date of its presentation, after which time my clients, on behalf of Mr. Horton, will be allowed by law to institute appropriate action for recovery of damages sustained as a result of this incident.

The anticipated legal action that will be brought on behalf of Mr. Horton will allege, among other things, that the police officers and personnel in question acted in a reckless and grossly negligent manner in the manner in which they ultimately seized Mr. Horton (and killed him) and that the Atlanta Police Department and Chief of Police were negligent in the manner in which officers were trained to deal with situation like the one facing Officer Smith. Any action that we file on behalf of Mr. Horton will include, but will not be limited to, federal claims presented under 42 U.S.C. §1983 as well as pendent state negligence claims relating to assault and battery and wrongful death of Mr. Horton (and any other claims proved by the evidence in the case), which first must be preceded by the within notice.

We would be happy to discuss settlement with you.

I look forward to hearing from you.

Sincerely,



Jodi S. Dick

enclosures

00-*R*-1763

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  
B Starnes  
Y Bond  
Y Winslow

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