

Entered - 12-27-99 - sb
CL99L0867 - ALEXIS HOLMES

CLAIM OF: **VERNA C. NIX**
Through her Attorney
Sean J. McIlhinney
1961 N. Druid Hills Road
Suite 203-A
Atlanta, Georgia 30329

01- R-0273

For injuries allegedly sustained as a result of stepping on an obstruction in the sidewalk on August 25, 1999 at 140 Decatur Street.

THIS ADVERSE REPORT IS APPROVED

BY: Rosalind Rubens Newell by
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY Robert N. Cole

ADVERSE REPORT
CITYSOURCE MAR 05 2001

ADVERSE REPORT

COM. P.S. + LA

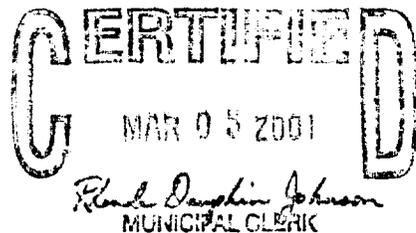
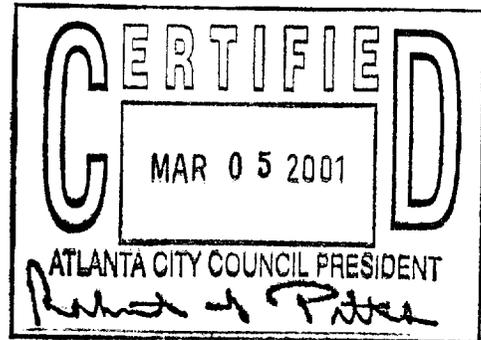
DATE 2/27/01

CHM. C. T. Martin

Michael Smith

Donny Smith

Cela Traylor





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

March 13, 2001

Sean J. McIlhinney
Attorney at Law
1961 N. Druid Hills Road
Suite 203-A
Atlanta, GA 30329

01-R-0273

RE: Verna C. Nix

Dear Attorney McIlhinney:

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 March 05, 2001. 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. 99L0867

Date: 2/9/01

Claimant /Victim VERNA C. NIX
BY: (Atty) Sean J. McIlhinney
Address: 1961 N. Druid Hills Road, Suite 203 A, Atlanta, Georgia 30329-1810
Subrogation: Claim for Property damage \$ Bodily Injury \$ 25,000.00
Date of Notice: 12/15/99 Method: Written, proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 8/25/99 Place: 140 Decatur Street
Department Public Works Division: Street Operations
Employee involved Disciplinary Action:

NATURE OF CLAIM: The claimant alleges that she sustained injuries when she stepped on two large sharp pieces of metal that were protruding out of the ground. However, the City did not have actual "Notice" and therefore are relieved of any and all liability resulting from the defect as set forth under O.C.G.A. § 32-4-93.

INVESTIGATION:

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

BASIS OF RECOMMENDATION:

Function: Governmental Ministerial X
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,

Alexis Holmes
INVESTIGATOR - ALEXIS HOLMES

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01
Claims Manager: Concur/date 02-12-01
Committee Action: Council Action

SEAN J. MCILHINNEY
ATTORNEY AT LAW
1961 N. DRUID HILLS RD., SUITE 203-A • ATLANTA, GEORGIA • 30329-1810
PHONE: 404-321-7733 • FAX: 404-325-0014

Reeves
12/20/99
DM

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

December 14, 1999

ENTERED - 12-27-99 - SB
99L0867 - MIKE REEVES

Atlanta City Council
55 Trinity Avenue, S.W.
Atlanta, Georgia 30335
Attention: Municipal Clerk

Susan P. Lankford
City Attorney
68 Mitchell Street
Suite 4100
Atlanta, Georgia 30335

Re: Demand and Ante Litem Notice – Mrs. Verna C. Nix – Date of Loss
08/25/99

Dear Ladies and Gentlemen:

I have been retained as counsel by Mrs. Verna C. Nix for injuries, which she first suffered on August 25, 1999 on the sidewalk at or around 140 Decatur Street, which is owned, maintained, and controlled by the City of Atlanta. On Wednesday, August 25, 1999 Mrs. Nix dislocated two toes and ruptured tendons and ligaments in her right foot when she stepped on two sharp one to two inch pieces of metal that were sticking out of the sidewalk and appear to be from a street sign post that was previously removed. Mrs. Nix was wearing shoes when the injury occurred.

Please accept this notice of demand as the Ante Litem Notice to a municipal corporation pursuant to O.C.G.A. § 36-33-5. Below are following requirements, which are required by O.C.G.A. § 36-33-5 to provide adequate notice of the claim to the City of Atlanta.

Time of Injury: 6:30 p.m., Wednesday, August 25, 1999

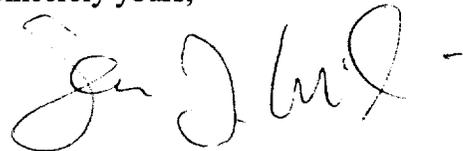
Place of Injury: Sidewalk at or around 140 Decatur Street, Atlanta, Georgia, approximately 25 to 35 feet from the corner of Piedmont and Decatur Street, directly in front of the Urban Life College of Law Building at the entrance to the parking garage for the faculty/staff B lot on the campus of Georgia State University

Extent of Injury: Mrs. Nix injured the toes, ligaments and tendons on her right foot. She suffered excruciating pain and suffering at the time of injury and immediately thereafter. She has also suffered great pain and suffering on a daily basis, continuously, since the accident as the result of her injuries. This pain and suffering includes daily pain and the loss of use of her right foot. Mrs. Nix has suffered lost wages due to her injuries. Mr. Nix has suffered a loss of consortium as the result of his wife's injuries.

Negligence: The City of Atlanta was negligent when it failed to completely remove a street sign post and left two sharp one to two inch pieces of metal sticking out of the sidewalk at or around 140 Decatur Street. The City of Atlanta failed to properly maintain its sidewalk at or around 140 Decatur Street.

This notice is intended as a statutory demand to compensate Mrs. Nix, who is still receiving medical care for the injuries which she suffered as a result of the City of Atlanta's negligence. These injuries include Mrs. Nix's past and future medical expenses, her pain and suffering and Mr. Nix's loss of consortium. I look forward to working with the City to resolve this matter amicably and swiftly. Please contact me to discuss the claim. With best regards, I am

Sincerely yours,



Sean J. McIlhinney



RCS# 2689
3/05/01
6:36 PM

Atlanta City Council

Regular Session

CONSENT

Pages: 1 thru. 13

ADOPT

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

SEE ATTACHED LISTING OF
ITEMS ADOPTED/ADVERSED
ON CONSENT AGENDA

NV McCarty	Y Dorsey	Y Moore	Y Thomas	ITEM (S) REMOVED FROM <u>CONSENT AGENDA</u> 01-O-0240 01-R-0307 01-R-0346
Y Starnes	Y Woolard	NV Martin	Y Emmons	
Y Bond	Y Morris	B Maddox	Y Alexander	
Y Winslow	Y Muller	Y Boazman	NV Pitts	

CONSENT

**ITEMS ADOPTED ON CONSENT
AGENDA**

**ITEMS ADVERSED
ON CONSENT AGENDA**

1. 01-O-0179
2. 01-O-0348
3. 00-O-1657
4. 01-O-0355
5. 01-O-0152
6. 01-R-0190
7. 01-R-0349
8. 01-R-0351
9. 01-R-0290
10. 01-R-0304
11. 01-R-0305
12. 01-R-0369
13. 01-R-0370
14. 01-R-0297
15. 01-R-0300
16. 01-R-0298
17. 01-R-0299
18. 01-R-0251
19. 01-R-0252
20. 01-R-0253
21. 01-R-0254
22. 01-R-0255
23. 01-R-0256
24. 01-R-0257
25. 01-R-0258
26. 01-R-0259
27. 01-R-0260
28. 01-R-0261
29. 01-R-0262
30. 01-R-0263
31. 01-R-0264
32. 01-R-0265
33. 01-R-0266
34. 01-R-0267
35. 01-R-0268
36. 01-R-0269
37. 01-R-0291
38. 01-R-0292

39. 01-R-0270
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