

Entered - 04/02/01 - sb
CL01L0200 - DIANNE C. MITCHELL

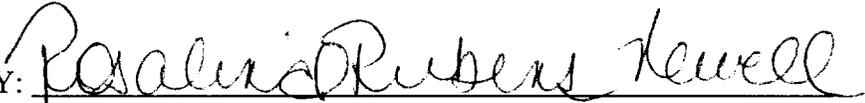
CLAIM OF: **EMILY M. CANNING**
3411 Windcliff Drive
Marietta, Georgia 30067

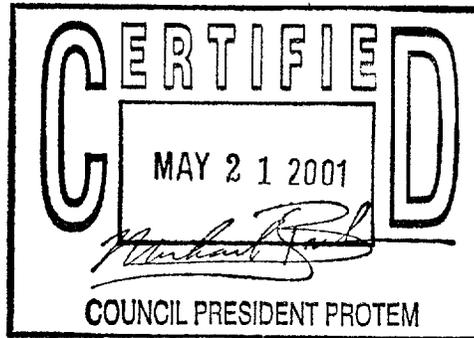
01-R -0687

For damages alleged to have been sustained as a result of vehicular damage due to road construction on February 2, 2001 at Crescent Avenue, NE near 14th Street.

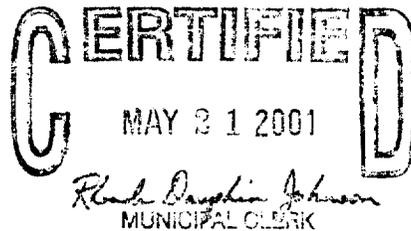
CONSENT AGENDA

THIS ADVERSED REPORT IS APPROVED

BY: 
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY



ADVERTISED MAY 2 1 2001
CITY 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

May 24, 2001

Emily M. Canning
3411 Windcliff Drive
Marietta, Georgia 30067

01-R-0687

Dear Ms. Canning:

I sincerely regret that you have been adversely affected by the circumstances raised in your 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 claim at its regular meeting on May 21, 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.

Sincerely,

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 01L0200

Date: April 10, 2001

Claimant /Victim EMILY M. CANNING

BY: (Atty)(Ins. Co.)

Address: 3411 Windcliff Drive, Marietta, Georgia 30067

Subrogation: Claim for Property damage \$ 2,476.68 Bodily Injury \$

Date of Notice: 03/12/01 Method: Written, proper X Improper

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X

Date of Occurrence 02/02/01 Place: Crescent Avenue near 14th Street

Department Division:

Employee involved Disciplinary Action:

NATURE OF CLAIM: The claimant alleges she damaged her vehicle when she drove through an area of the roadway that had been left in an unsafe condition. The investigation determined that the roadway construction was performed by Hardin Construction Company who installed new sewer lines and manholes in the roadway to service a new building. The claim has been forwarded to the contractor for resolution and the claimant has been advised of same.

INVESTIGATION:

Statements: City employee X Claimant Others X Written Oral X

Pictures Diagrams Reports: Police Dept Report Other

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 - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01

Claims Manager: [Signature] Concur/date 01-02-01

Committee Action: Council Action

COUNCIL OF THE CITY OF ATLANTA
MUNICIPAL CLERK
City Hall
55 Trinity Avenue, S.W.
Atlanta, Georgia 30335

MAR 12 2001

Mitchell
03/27/01
RE: CLAIM FOR DAMAGES
Today's Date: 2/23/01 *Ph*

ENTERED - 4-2-01 - SB
01L0200 - DIANNE MITCHELL

Dear Municipal Clerk:

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ 2476.68 property and/or \$ _____ bodily injury for which I contend the City is liable.

1. Date of incident: February 2, 2001 (month/day/year) 2. Time of Incident: 7pm 3. Police called: Yes No

4. Location of incident (including street address): 14th Street & Crescent Ave. (On Crescent)

5. Name of your insurance company: State Farm Insurance Policy No. 201318-E25-11

6. State what and how incident occurred: After turning on to Crescent Avenue from 14th street, my car dropped into a wide pothole containing a covered manhole. The manhole lid was several inches above the ground and resulted in major frame damage to the underside of my car. (More attached)

7. ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!

8. The registered owner must make the claim for vehicle damages, complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle (copy of the current tag receipt or title).

Your vehicle: Toyota Corolla (Make) 1992 (Year) 289 244 (Tag Number) Emily M. Canning (Driver's Name)

City vehicle: _____ (Make) _____ (City Driver's Name) _____ (Department/Bureau)

9. Witness: Noel Moreno (Name) 20026 Shadowood Pkwy (Address) Apt. 226 770-916-1030 (Telephone Number)
Atlanta, GA 30339

10. The acknowledgment of this claim in no way waives the Sovereign immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and/or its employee(s).

11. This claim should be mailed immediately to the address shown above.

I HEREBY SWEAR OR AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

Emily Canning
Signature of Claimant

Emily M. Canning
(Print Claimant's Name)

3411 Windcliff Drive
(Address)

Marietta, GA 30067
(City, State and Zip Code)

404-894-0327 770-612-2590
(Work Number) (Home Number)

Emily Canning
3411 Windcliff Drive
Marietta, GA 30067
770-612-2590

Council of the City of Atlanta
Municipal Clerk
City Hall 55 Trinity Avenue, S.W.
Atlanta, GA 30335
RE: CLAIM FOR DAMAGES

Dear Madame / Sir:

After turning on to Crescent Avenue from 14th Street, my car dropped into a wide pothole containing a covered manhole. The manhole lid was several inches above the ground, and resulted in major frame damage to the underside of my car. Though the impact was only at a speed of approximately 20 miles per hour, my car was declared totaled, as damages amounted to \$2476.68 for repair.

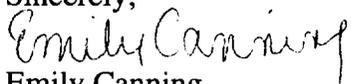
The accident occurred at approximately 7pm that evening and the roads were dark. I had noticed that the sidewalk was gated off for construction, but there were no markings on the street. The police were called, and a report was filed. There were also two other passengers in the vehicle who were, fortunately, not injured.

To further investigate, I returned to the area the following day to take a better look. I found out that this area was closed off for the weekends for construction. I took several photos that are contained in this claim to prove the neglected state of this area. A few days later, I checked again to find that there was now a precautionary cone around the manhole. These photos are also enclosed.

I appreciate your concern in this incident and apologize for any trouble this may cause. Confident that I am not at fault in this situation, I am seeking full reimbursement for the damages from the City of Atlanta. Though my car was older, it was in extremely good condition. I have never had any previous accidents, and take great care of this vehicle. Being without a car for the past several weeks has been a major inconvenience for me, and I am unable to afford a new car.

I have enclosed two estimates for the damages to the vehicle, and both mechanics clearly pointed out the obvious impact of a foreign object in the road. They also emphasized that this car would be a great danger to drive.

Please contact me if you have any further questions regarding this incident. Again, I appreciate your concern, and I hope to hear from you soon.

Sincerely,

Emily Canning

01- *L* -0687

President Pro Tem Bond Presided

RCS# 2865
5/21/01
1:48 PM

Atlanta City Council

Regular Session

CONSENT

Pages 1 thru 16

ADOPT

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 2

SEE ATTACHED LISTING OF
ITEMS ADOPTED/ADVERSED
ON CONSENT AGENDA

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

ITEM (S) REMOVED FROM
CONSENT AGENDA
01-O-0721
01-O-0752
01-O-0753
01-O-0494
01-O-0712
01-R-0763
01-R-0765

CONSENT

**ITEMS ADOPTED
ON CONSENT
AGENDA**

**ITEMS ADOPTED
ON CONSENT
AGENDA**

**ITEMS ADVERSED
ON CONSENT
AGENDA**

1. 01-O-0582
2. 01-O-0583
3. 01-O-0584
4. 01-O-0585
5. 01-O-0586
6. 01-O-0587
7. 01-O-0742
8. 01-O-0748
9. 01-O-0715
10. 01-O-0723
11. 01-O-0751
12. 01-O-0754
13. 01-O-0755
14. 01-O-0756
15. 01-O-0106
16. 01-O-0495
17. 01-O-0496
18. 01-O-0497
19. 01-O-0498
20. 01-O-0567
21. 01-O-0568
22. 01-O-0569
23. 01-O-0616
24. 01-O-0638
25. 01-O-0643
26. 01-O-0665
27. 01-O-0716
28. 01-O-0759
29. 01-R-0667
30. 01-R-0669
31. 01-R-0670
32. 01-R-0656
33. 01-R-0675
34. 01-R-0676
35. 01-R-0725
36. 01-R-0744
37. 01-R-0750
38. 01-R-0758
39. 01-R-0456
40. 01-R-0654

41. 01-R-0757
42. 01-R-0698
43. 01-R-0699
44. 01-R-0700
45. 01-R-0764
46. 01-R-0649
47. 01-R-0658
48. 01-R-0659
49. 01-R-0661
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51. 01-R-0673
52. 01-R-0677
53. 01-R-0678
54. 01-R-0679
55. 01-R-0680
56. 01-R-0681
57. 01-R-0682
58. 01-R-0683
59. 01-R-0760
60. 01-R-0684

61. 01-R-0685
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 70. 01-R-0694
 71. 01-R-0695
 72. 01-R-0697
 73. 01-R-0761
 74. 01-R-0762
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