

Entered - 05/17/01 - sb
CL01L0309 - DIANNE C. MITCHELL

CLAIM OF: **MARK THOMPSON**
863 River Glen Place
Riverdale, Georgia 30296

01- *R* -0945

For damages alleged to have been sustained as a result of a vehicular accident on September 28, 2000 at State Route 139.

THIS ADVERSED REPORT IS APPROVED

BY: *Robert N. Godfrey*
ROBERT N. GODFREY
DEPUTY CITY ATTORNEY

ADVERSED BY
CITY COUNCIL JUL 0 2 2001

ADVERSE REPORT

PUBLIC SAFETY &
LEGAL ADMINISTRATION COMMITTEE

DATE: *6/28/01*

CHAIR: *C. T. Mink*

[Signature]

[Signature]

[Signature]

CERTIFIED
ATLANTA CITY COUNCIL PRESIDENT
[Signature]
JUL 0 2 2001

CERTIFIED
[Signature]
MUNICIPAL CLERK
JUL 0 2 2001



**CITY OF ATLANTA
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**

July 2, 2001

Mark Thompson
863 River Glen Place
Riverdale, Georgia 30296

01-R-0945

Dear Mr. Thompson:

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 July 2, 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. 01L0309

Date: June 14, 2001

Claimant /Victim MARK THOMPSON

BY: (Atty)(Ins. Co.)

Address: 863 River Glen Place, Riverdale, Georgia 30296

Subrogation: Claim for Property damage \$ 2,533.20 Bodily Injury \$

Date of Notice: 05/16/01 Method: Written, proper X Improper

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

Date of Occurrence 09/28/00 Place: State Route 139

Department Aviation Division:

Employee involved Jimmy D. Hester Disciplinary Action:

NATURE OF CLAIM: The claimant alleges that his vehicle was rear ended by the driver of the City vehicle causing damages in the above amount. However, the claim as presented does not comply with the requirements of notice as set forth in O.C.G.A. §36-33-5, the six month statute of limitations expired prior to receipt of the claim.

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 X Other 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,

[Handwritten signature of Dianne C. Mitchell]

INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

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

Claims Manager: [Handwritten signature] Concur/date 06-18-01

Committee Action: Council Action

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

RE: CLAIM FOR DAMAGES

M. Mitchell
05/16/01
DM

Today's Date: MAY 15, 2001

ENTERED - 5-17-01 - SB
01L0309 - DIANNE MITCHELL

Dear Municipal Clerk:

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ 2,533.20 property and/or \$ 2,200.00 bodily injury for which I contend the City is liable.

1. Date of incident: 9/28/00 (month/day/year) 2. Time of Incident: 6:58 A.M. 3. Police called: Yes No

4. Location of incident (including street address): S. R. 139

5. Name of your insurance company: STATE FARM INSURANCE Policy No. 7367701A1711B

6. State what and how incident occurred: I WAS TRAVELING NORTH BOUND ON SR 139 IN THE OUTSIDE CURB LANE. AS I STOPPED BEHIND NORTH BOUND TRAFFIC, I WAS STRUCK IN THE REAR BY MR. HESTER'S VEHICLE.

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: SATURN (Make) '94 (Year) 756 FHA (Tag Number) MARK THOMPSON (Driver's Name)

City vehicle: CHEVROLET (Make) JIMMY D HESTER (City Driver's Name) CITY OF ATLANTA (Department/Bureau)

9. Witness: B. PARKS (Name) 7390 N. Mc DONOUGH STREET (Address) 12021 CLAYTON COUNTY P.D (Address) GA 30236 (Address) (770) 477-3747 (Telephone Number)

10. The acknowledgement 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.

Mark Thompson
Signature of Claimant

MARK THOMPSON
(Print Claimant's Name)

863 RIVER GLEN PLACE
(Address)

RIVERDALE, GA. 30296
(City, State and Zip Code)

(4) 562-0963 (Work Number) (7) 909-3368 (Home Number)

01-R-0945

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

RE: CLAIM FOR DAMAGES

Today's Date: 4/27/99

Jordan
05/13/99

MAY 6 1999

Dear Municipal Clerk:

ENTERED - 5-21-99 - SB
99L0311 - DOBBS JORDAN

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ 286.93 property and/or \$ -0- bodily injury for which I contend the City is liable.

1. Date of incident: April 17, 1999 2. Time of Incident: 2:00 pm 3. Police called: NO
(month/day/year) Yes No

4. Location of incident (including street address): 2290 Ben Hill Road, S.W. Atlanta, Ga.

5. Name of your insurance company: Atlanta Casualty Company Policy No. 06267470

6. State what and how incident occurred: I was driving around the curve and the hole was in the bend of the curve, uncovered. After hitting hole, my car was undrivable. Tire would scrub sides of frame when driving.

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: Volkswagon 1995 940MNX Carolyn Rucker
(Make) (Year) (Tag Number) (Driver's Name)

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

9. Witness: Willie Rucker 3427 Collier Ct. NW (404) 505-7864
(Name) (Address) (Telephone Number)
Atlanta, Georgia 30331

10. The acknowledgement 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 employees).

01-P-0941

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.

Carolyn Rucker 3304 Springside Print Claimant's Name)
Signature of Claimant Decatur 30034 Address
Atlanta, Ga. 30331
(City, State and Zip Code)

Steel piece did not adequately cover the complete hole, only covers one side. City should have put larger steel piece ^{to} ^{cover} hole.

(770) 857-6778 (404) 505-7864
(Work Number) (Home Number)

**LONG, WEINBERG,
ANSLEY & WHEELER, LLP**

ATTORNEYS AT LAW
999 PEACHTREE STREET, N.E.
SUITE 2700
ATLANTA, GEORGIA 30309
TELEPHONE (404) 876-2700
FACSIMILE (404) 875-9433

July 19, 1999

**ENTERED - 8-10-99 - SB
99L0497 - DIANNE MITCHELL**

Per plan
Orig to D Mitchell
copy to Sim fl.
8-5-99
Blk,
Giv

M Mitchell
08/11/99
DM

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

William Campbell, Mayor
City Hall, Suite 2400
55 Trinity Avenue, SW
Atlanta, Ga 30335

**Re: Diego Ruiz v. City of Atlanta
Ante Litem Notice Pursuant to O.C.G.A. §36-33-5.
Unliquidated Damages Demand Pursuant to O.C.G.A.
§51-12-14**

Dear Mayor Campbell:

Please be advised that my client, Diego Ruiz, was a pedestrian on a sidewalk adjacent to Buckhead Avenue on March 21, 1999 at approximately 2:00 a.m. when he fell into an open man hole, thereby severely injuring his leg. Laser color photographs of Mr. Ruiz's injuries are attached hereto as Exhibit "A". Mr. Ruiz's medical bills incurred to date are attached hereto as Exhibit "B".

Pursuant to O.C.G.A. §32-4-93, the City of Atlanta is liable to Mr. Ruiz for his medical bills and pain and suffering because it negligently failed to provide adequate warning to the public of the defect in the sidewalk.

The City of Atlanta had the duty to use ordinary care to keep city streets and sidewalks in a reasonably safe condition for use by persons in ordinary methods of travel. See City of Marietta v. Godwin, 106 Ga. App. 113, 126 S.E.2d. 302 (1962), City of Barnesville v. Fapington, 58 Ga. App. 27, 197 S.E. 342 (1938); see also City of Vidalia v. Brown, Case No. A99A-0518 (decided 4/29/99). Thus, the City of Atlanta is liable for defects in streets and sidewalks negligently caused by its own agents or employees. Similarly, the City of Atlanta is liable for such defects caused by strangers or forces of nature, where the city had notice of a defect and failed to exercise ordinary care to remove it, or where the defect had existed for such a length of time that it would be reasonable to conclude the city should have learned of the defect and exercised ordinary care to remove it. Id.

RCS# 2964
7/02/01
2:13 PM

Atlanta City Council

Regular Session

CONSENT

Pages 1 through 11

ADOPT

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 1

SEE ATTACHED LISTING OF ITEMS
ADOPTED/ADVERSED ON
CONSENT AGENDA

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

ITEM (S) REMOVED FROM
CONSENT AGENDA
01-O-0819

CONSENT

**ITEMS ADOPTED ON
CONSENT AGENDA**

1. 01-O-0869
2. 01-O-0965
3. 01-O-0969
4. 01-O-0977
5. 01-O-0857
6. 01-O-0911
7. 01-O-0968
8. 01-O-0920
9. 00-R-1625
10. 01-R-0929
11. 01-R-0931
12. 01-R-0932
13. 01-R-0989
14. 01-R-0993
15. 01-R-0957
16. 01-R-0926
17. 01-R-0982
18. 01-R-0923
19. 01-R-0956
20. 01-R-0963
21. 01-R-0975
22. 01-R-1001
23. 01-R-0933
24. 01-R-0934
25. 01-R-0935

**ITEMS ADVERSED
ON CONSENT AGENDA**

26. 01-R-0936
 27. 01-R-0937
 28. 01-R-0938
 29. 01-R-0939
 30. 01-R-0940
 31. 01-R-0941
 32. 01-R-0942
 33. 01-R-0943
 34. 01-R-0944
 35. 01-R-0945
 36. 01-R-0946
 37. 01-R-0947
 38. 01-R-0948
 39. 01-R-0949
 40. 01-R-0950
 41. 01-R-0951
 42. 01-R-0952
 43. 01-R-0953
 44. 01-R-0954
 45. 01-R-0955
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