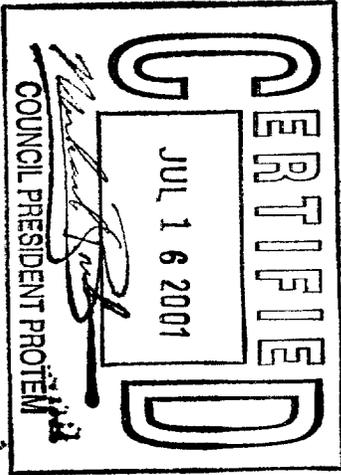


01- R-1069

Entered - 3-21-01 - sb
CL - 01L0186 ALEXIS HOLMES

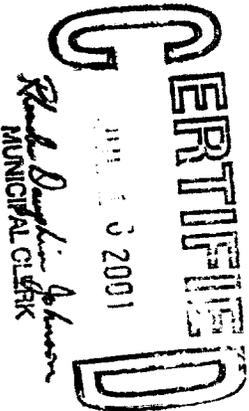
CLAIM OF: **JIMMIE MCCLARIN**
Through his Attorney
Craig Miller, Esq.
Kaufman, Chaiken Miller & Klorfein
Suite 720
400 Perimeter Center Terrace, NE
Atlanta, Georgia 30346-1234



For damages alleged to have been sustained as a result of a vehicular incident when police were pursuing a suspect on November 30, 2000 at 1255 Bankhead Highway.

THIS ADVERSE REPORT IS APPROVED

BY: *Rosalind Rubens Newell*
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY *Robn. G. OCA*



CONSENT AGENDA

ADVERSE REPORT

PUBLIC SAFETY &
LEGAL ADMINISTRATION COMMITTEE

DATE: 7/10/01
CHAIR: C.T. Martins

Shirley Sawyer
W...

ADVERSE BY
CITY COUNCIL JUL 16 2001



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 27, 2001

Craig Miller
Attorney at Law
400 Perimeter Center Terrace NE
Suite 720
Atlanta, GA 30346-1234

01-R-1069

RE: Jimmie McClarin

Dear Attorney Miller:

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 July 16, 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. 01L0186

Date: 6/29/01

Claimant /Victim JIMMIE MCCLARIN
BY: (Atty)(Ins.) Kaufman, Chaiken, Miller & Klorfein
Address: Suite 720 400 Perimeter Center Terrace, NE Atlanta, Georgia 30346-1234
Subrogation Claim for Property damage \$ Bodily Injury \$ Unspecified
Date of Notice: 3/22/01 Method: Written, proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 11/30/00 Place: 1255 Bankhead Highway MARTA Station
Department Police Division: Field Operations Division
Employee involved Officer. W.A. Terrell Disciplinary Action: Pending

NATURE OF CLAIM: The claimant alleges that a City of Atlanta police officer driving in pursuit of a suspect struck him. The City extended an offer of \$2,000.00, and the claimant's attorney rejected the City's offer.

INVESTIGATION:

Statements: City employee Claimant Other Written X Oral
Pictures X 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 Damages reasonable
City not involved Offer rejected X 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 06-29-01
Committee Action: Council Action

KAUFMAN, CHAIKEN, MILLER & KLORFEIN

A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELLORS AT LAW

SUITE 720

400 PERIMETER CENTER TERRACE, N. E.
ATLANTA, GEORGIA 30346-1234

TELEPHONE (770) 390-9200
FACSIMILE (770) 395-6720

CRAIG D. MILLER

March 14, 2001

ENTERED - 3-21-01 - SB
01L0186 - ALEXIS HOLMES

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
CERTIFICATE NO. 7099 3400 0010 1073 9065

Ms. Diane Mitchell
City of Atlanta
Department of Law
68 Mitchell Street, S.W.
Suite 4100
Atlanta, Georgia 30335-0332

Re: ANTE LITEM NOTICE

Our Client: Jimmy McClarin
Date of Incident: November 30, 2000
Place of Incident: Bankhead Marts Station at Bankhead Highway and Ashby Street
Our File No.: 5611-001

Dear Ms. Mitchell:

Please be advised that this law firm represents Mr. Jimmy McClarin in all matters pertaining to bodily injuries he sustained on November 30, 2000, at approximately 5:50 p.m. While walking along the sidewalk toward the entrance to the Bankhead Marta Station, Mr. McClarin was struck by two motor vehicles alongside 1225 Bankhead Highway in Atlanta, Georgia. The first vehicle which struck Mr. McClarin was being pursued by Officer W.A. Terrell, Atlanta Police Department ID# 2661 while he was operating a Atlanta Police car in the course of his employment by the City of Atlanta. Mr. McClarin was then struck a second time, just seconds later, by the aforementioned Atlanta Police car operated by Officer W.A. Terrell.

Pursuant to O.C.G.A. §36-33-5, the City of Atlanta is hereby given notice of Mr. McClarin's claim for damages arising from the above-referenced incident. A copy of the Police Report is enclosed.

Holmes
03/20/01
Du

Ms. Diane Mitchell

March 14, 2001

Page 2

The nature and extent of Mr. McClarin's injuries are as follows:

1. Broken left leg, lacerations;
2. Left arm, elbow and shoulder bruised and dislocated;
3. Right knee bruises, lacerations and torn flesh;
4. Mobility was non-existent for months and is limited now; and
5. Mr. McClarin remains disabled from work at present.
6. Copies of photos are enclosed.

As a result of the second impact (i.e. the collision with the front of the vehicle operated by Atlanta Police Officer W.A. Terrell), Mr. McClarin was knocked down to the pavement and sustained multiple fractures to his left leg, as well as abrasions, contusions and injuries to his left arm and right leg. He was transported from the scene via ambulance to Grady Memorial Hospital where he remained hospitalized and immobile for several weeks.

The negligence which caused the injury is:

- a) Negligence in failing to apprehend the suspects before they entered their automobile; had the Atlanta Police done so, there would have been no chase and no injuries to Mr. McClarin.
- b) Negligence in continuing the chase into a zone of high population density (i.e. a Marta Station) where it was known that pedestrians would be nearby and in danger.
- c) Negligence in the operation of the police vehicle, leaving the roadway, striking a pedestrian upon the sidewalk.
- d) Negligence in failing to discontinue the chase of the suspects once they were in the vicinity of the Marta Station.
- e) Any other acts of negligence which the evidence may show.

KAUFMAN, CHAIKEN, MILLER & KLORFEIN

Ms. Diane Mitchell

March 15, 2001

Page 3

The amount of damages claimed is uncertain at this time, and specifying the amount is not required in this Notice. Maryon v. City of Atlanta, 149 Ga. 35, 99 S.E. 116 (1919), Mayor of Waynesboro v. Hargrove, 111 Ga. App. 26, 140 S.E.2d 286 (1965), Tanner v. City of Gainesville, 162 Ga. App. 405, 290 S.E.2d, 541 (1982).

Very truly yours,

A handwritten signature in black ink, appearing to read 'Craig D. Miller', with a long horizontal flourish extending to the right.

Craig D. Miller

CDM/jhh
Enclosure

cc: Jimmy McClarin

01-R-1069

RCS# 2995
7/16/01
2:24 PM

Atlanta City Council

Regular Session

CONSENT

Pages 1 through 16

ADOPT

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

SEE ATTACHED LISTING OF
ITEMS ADOPTED/ADVERSED
ON CONSENT AGENDA

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

ITEM (S) REMOVED FROM
CONSENT AGENDA

01-O-0992 01-R-1108
01-O-0710 01-R-1041
01-O-0711 01-R-1042
01-O-1089 01-R-1043
01-O-0995 01-R-1065

CONSENT

**ITEMS ADOPTED
ON CONSENT
AGENDA**

1. 01-O-1091
2. 01-O-0722
3. 01-O-0855
4. 01-O-0890
5. 01-O-0891
6. 01-O-0980
7. 01-O-0924
8. 01-O-1086
9. 01-O-1090
10. 01-O-0731
11. 01-O-0917
12. 01-R-1013
13. 01-R-1014
14. 01-R-1015
15. 01-R-1016
16. 01-R-1007
17. 01-R-1009
18. 01-R-1012
19. 01-R-1005
20. 01-R-1006
21. 01-R-1011
22. 01-R-1109
23. 01-R-1017
24. 01-R-1077
25. 01-R-1080
26. 01-R-1019
27. 01-R-1020
28. 01-R-1021
29. 01-R-1022
30. 01-R-1023
31. 01-R-1024
32. 01-R-1025
33. 01-R-1026
34. 01-R-1027
35. 01-R-1028
36. 01-R-1107

**ITEMS ADVERSED
ON CONSENT
AGENDA**

37. 01-R-1029
38. 01-R-1030
39. 01-R-1031
40. 01-R-1032
41. 01-R-1033
42. 01-R-1034
43. 01-R-1035
44. 01-R-1036
45. 01-R-1037
46. 01-R-1038
47. 01-R-1039
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68. 01-R-1063
69. 01-R-1064
70. 01-R-1066
71. 01-R-1067
72. 01-R-1068

**ITEMS ADVERSED
ON CONSENT
AGENDA**

73. 01-R-1069
 74. 01-R-1070
 75. 01-R-1071
 76. 01-R-1072
 77. 01-R-1073
 78. 01-R-1104
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