

Entered -07-09-01 - sb
CL 01L0428 - GWENDOLYN BURNS

01-R -1848

CLAIM OF:

JOEL BERGER
1027 Mill Overlook
Atlanta, Georgia 30319

For damages alleged to have been sustained when a vehicle was driven over a sewer construction site that was not properly covered in the roadway on June 5, 2001 at Peachtree Dunwoody Road, NE & Haven Oaks Court, NE (3740 Peachtree Dunwoody Road, NE).

THIS ADVERSED REPORT IS
APPROVED

BY: Rosalind Rubens Newell
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

ADVERSE REPORT

PUBLIC SAFETY &
LEGAL **NOV 19 2001** INVESTIGATION COMMITTEE

DATE: _____

CHAIR: C. T. Atlanta

Cliff Harrison

Jim

Wahl

ADVERSED BY
CITY COUNCIL NOV 19 2001

CERTIFIED
NOV 19 2001
ATLANTA CITY COUNCIL PRESIDENT
Robert W. Pitts

CERTIFIED
NOV 19 2001
Rhonda Doughton 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 30, 2001

Joel Berger
1027 Mill Overlook
Atlanta, GA 30319

01-R-1848

Dear Mr. Berger:

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 November 19, 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. 01L0428

Date: October 30, 2001

Claimant /Victim JOEL BERGER

BY: (Atty) (Ins. Co.)

Address: 1027 Mill Overlook, Atlanta, Georgia 30319

Subrogation: Claim for Property damage \$ 183.96 Bodily Injury \$

Date of Notice: 6/2/01 Method: Written, Proper X Improper

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

Date of Occurrence 6/5/01 Place: Peachtree Dunwoody Rd. & Haven Oaks Ct. (3740 Peachtree Dunwoody Rd.)

Department Division

Employee involved Disciplinary Action:

NATURE OF CLAIM: Claimant alleges that his vehicle sustained damage when he drove over a sewer construction site in the roadway that was left open and in an unsafe manner. However, an investigation determined that an outside contractor performed work at the incident location. The claimant has been notified and his claim has been forwarded to the contractor for immediate resolution.

INVESTIGATION:

Statements: City employee X Claimant Others Written Oral X

Pictures Diagrams Reports: Police Dept Report X Other X

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,

Gwendolyn Burns
INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

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

Claims Manager: Concur/date 10-31-01

Committee Action: Council Action

RCS# 3297
11/19/01
5:16 PM

Atlanta City Council

Regular Session

MULTIPLE

Unfavorable Claims; Public Safety Items
19 through 37
ADOPT

YEAS: 11
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 3

01-R-1835
01-R-1836
01-R-1837
01-R-1838
01-R-1839
01-R-1840
01-R-1841
01-R-1842
01-R-1843
01-R-1844
01-R-1845
01-R-1846
01-R-1847
01-R-1848
01-R-1849
01-R-1850
01-R-1851
01-R-1853
01-R-1855

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

MULTIPLE