

Entered - 06/04/02 - sb
CL02L0381 - DIANNE C. MITCHELL

02- R -1199

CLAIM OF: **FLORENTINO HERNANDEZ
AND SHUMATE MECHANICAL, INC.,**
through their insurance carrier,
Kemper Insurance Companies
6200 The Corners Parkway
Norcross, Georgia 30092

CERTIFIED
JUL 15 2002
ATLANTA CITY COUNCIL PRESIDENT
Catherine M. Harford

For damages alleged to have been sustained as a result of injuries due
to a fallen tree limb on April 22, 2002 at 1200 Mt. Paran Road, NW.

THIS ADVERSED REPORT IS APPROVED

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

CERTIFIED
JUL 15 2002
Robert N. Godfrey
MUNICIPAL CLERK

ADVERSED BY
CITY COUNCIL JUL 15 2002

ADVERSE REPORT

COMM: P. S. L. A.
DATE: 7/9/02
CHAIR: *[Signature]*
C. T. Martin
Carla Smith
Cela [Signature]



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 30, 2002

Kemper Insurance Companies
Insurance Carrier
Attn: Valerie F. Cannady
6200 The Corners Parkway
Norcross, Georgia 30092

02-R-1199

RE: Florentino Hernandez and Shumate
Mechanical, Inc.

Dear Ms. Cannady:

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 15, 2002. 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. 02L0381

Date: June 19, 2002

Claimant /Victim FLORENTINO HERNANDEZ AND SHUMATE MECHANICAL, INC.
BY: (Ins. Co.) Kemper Insurance Companies
Address: 6200 The Corners Parkway, Norcross, Georgia 30092
Subrogation: Claim for Property damage \$ Bodily Injury \$ **Not Stated**
Date of Notice: 05/24/02 Method: Written, proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 04/22/02 Place: 1200 Mt. Paran Road, NW
Department PRCA Division: Forestry
Employee involved Disciplinary Action:

NATURE OF CLAIM: The claimant, Florentino Hernandez, alleges he was injured when a tree limb fell and struck his employer's vehicle causing him to be injured. The investigation determined that the City had no notice of any problems with any trees or tree limbs at this location prior to or after the incident involving the claimant. The City is immune from liability as set forth in O.C.G.A §36-33-1.

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 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,


INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01 2P01
Claims Manager  Concur/date 06-19-02
Committee Action: Council Action

RCS# 3893
7/15/02
5:12 PM

Atlanta City Council

Regular Session

CONSENT I

Pgs. 1-11; EXCEPT 02-R-1278

ADOPT

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 0

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	NV Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	NV Boazman	NV Woolard

1st Consent I Vote: 15 Yeas; 0 Nays (See RCS #3874)
Reconsidered 11 Yeas; 0 Nays (See RCS #3892)

CONSENT I

07/15/02 Council
Meeting

**ITEMS ADOPTED ON
CONSENT AGENDA**

**ITEMS ADOPTED ON
CONSENT AGENDA**

**ITEMS ADVERSED
ON CONSENT
AGENDA**

1. 02-O-1255
2. 02-O-1256
3. 02-O-1262
4. 02-O-0969
5. 02-O-1149
6. 02-O-1100
7. 02-O-1175
8. 02-O-1105
9. 02-O-1109
10. 02-O-1110
11. 02-O-1111
12. 02-O-1112
13. 02-O-1113
14. 02-O-1114
15. 02-O-1115
16. 02-O-1116
17. 02-O-1117
18. 02-O-1144
19. 02-R-0363
20. 02-R-1225
21. 02-R-1249
22. 02-R-1250
23. 02-R-1251
24. 02-R-1263
25. 02-R-1276
26. 02-R-1277
27. 02-R-1214
28. 02-R-1215
29. 02-R-1274
30. 02-R-1211
31. 02-R-1212
32. 02-R-1227
33. 02-R-1228

34. 02-R-1229
35. 02-R-1230
36. 02-R-1231
37. 02-R-1252
38. 02-R-1183
39. 02-R-1184
40. 02-R-1185
41. 02-R-1186
42. 02-R-1187
43. 02-R-1188
44. 02-R-1189
45. 02-R-1190
46. 02-R-1191
47. 02-R-1192
48. 02-R-1193
49. 02-R-1194
50. 02-R-1195
51. 02-R-1196

52. 02-R-1197
 53. 02-R-1198
 55. 02-R-1199
 56. 02-R-1200
 57. 02-R-1201
 58. 02-R-1202
 59. 02-R-1203
 60. 02-R-1204
 61. 02-R-1205
 62. 02-R-1206
 63. 02-R-1207
 64. 02-R-1208
 65. 02-R-1209
 66. 02-R-1210
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