

Entered -8-15-02 - sb  
CL 02L0573- GWENDOLYN BURNS

02-*R*-1947

CLAIM OF: Nicholas J. Wolfcale  
2152 Belvedere Drive  
Atlanta, Georgia 30318

For damages alleged to have been sustained when a parked vehicle was struck by a limb that fell from a tree on the City's right-of-way on July 2, 2002 at 731 Gladstone Road, NW.

THIS ADVERSED REPORT IS APPROVED

BY: *Rosalind Rubens Newell*  
ROSALIND RUBENS NEWELL  
DEPUTY CITY ATTORNEY

NOV 18 2002

ADVERSED BY  
CITY COUNCIL NOV 18 2002

**ADVERSE REPORT**

COMM: *Public Safety*

DATE: *11/12/02*

CHAIR: *[Signature]*

*[Signature]*

*[Signature]*

*[Signature]*

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**CERTIFIED**  
NOV 18 2002  
*Rosalind Rubens Newell*  
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 25, 2002

Nicholas J. Wolfcale  
2152 Belvedere Dr.  
Atlanta, GA 30318

02-R-1947

Dear Mr. Wolfcale:

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 18, 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.

Sincerely,

Rhonda Dauphin Johnson, CMC  
Municipal Clerk

cc: Claims Division/Law Department

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 02L0573

Date: October 29, 2002

Claimant /Victim NICHOLAS J. WOLFCALÉ
BY: (Atty) (Ins. Co.)
Address: 2152 Belvedere Drive, Atlanta, Georgia 30317
Subrogation: Claim for Property damage \$ 4,366.00 Bodily Injury \$
Date of Notice: 8/7/02 Method: Written, Proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 7/2/02 Place: 731 Gladstone Circle
Department PARKS, RECREATION AND CULTURAL AFFAIRS Division Parks
Employee involved Disciplinary Action:

NATURE OF CLAIM: Claimant alleges that he sustained property damage when his parked vehicle was struck by a limb that fell from a tree that was located in the public right-of-way. However, an investigation has determined that the City was not on notice of a problem at this location prior to claimant's incident.

INVESTIGATION:

Statements: City employee Claimant Others X 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 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,

Gwendolyn Burns
INVESTIGATOR - GWINDOLYN BURNS

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2P01 2H01
Claims Manager: Concur/date 10-31-02
Committee Action: Council Action

RCS# 4225  
11/18/02  
2:59 PM

Atlanta City Council

Regular Session

CONSENT I            Pgs. 1-9; Except 02-R-1982; 02-O-1882;

ADOPT

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

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

CONSENT I

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**11/18/02 Council Meeting**

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**ITEMS ADOPTED ON CONSENT  
AGENDA**

1. 02-O-1774
2. 02-O-1972
3. 02-O-1297
4. 02-O-1859
5. 02-O-1860
6. 02-O-1861
7. 02-O-1974
8. 02-O-1979
9. 02-O-1902
10. 02-O-1962
11. 02-O-1971
12. 02-O-1863
13. 02-O-1864
14. 02-R-1924
15. 02-R-1952
16. 02-R-1966
17. 02-R-1996
18. 02-R-2000
19. 02-R-1951
20. 02-R-1954
21. 02-R-1978
22. 02-R-1983
23. 02-R-1984
24. 02-R-1856
25. 02-R-1931
26. 02-R-1932
27. 02-R-1933
28. 02-R-1934
29. 02-R-1935
30. 02-R-1936

**ITEMS ADVERSE  
ON CONSENT AGENDA**

31. 02-R-1937
32. 02-R-1938
33. 02-R-1939
34. 02-R-1940
35. 02-R-1941
36. 02-R-1942
37. 02-R-1943
38. 02-R-1944
39. 02-R-1945
40. 02-R-1946
41. 02-R-1947
42. 02-R-1948
43. 02-R-1949
44. 02-R-1950

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Consent I Vote: 13 Yeas; 0 Nays (See RCS #4225)  
Items Removed from Consent: 02-R-1982; 02-R-1882