

Entered - 11/24/09 - sb  
CL- 09L0922 - Angelena Kelly

Claim of: The Estate of Everett Johnson  
Through its attorney, J. Philip Milam  
P.O. Box 956669  
Duluth, GA 30095

For damages alleged to have been sustained as a result of an automobile accident on September 15, 2009 at Hobart Drive near Vanderbilt Drive.

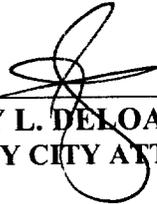
THIS ADVERSED REPORT IS APPROVED

ADVERSED BY  
CITY COUNCIL

JAN 19 2010

JAN 19 2010

BY: \_\_\_\_\_

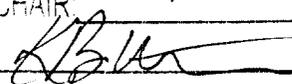
  
JERRY L. DELOACH  
DEPUTY CITY ATTORNEY

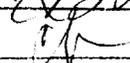
### ADVERSE REPORT

PUBLIC SAFETY &  
LEGAL ADMINISTRATION COMMITTEE

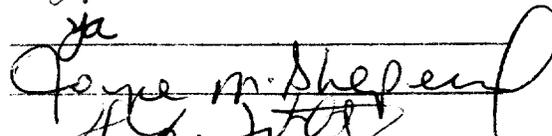
DATE: 1/12/10

CHAIR: \_\_\_\_\_

  
\_\_\_\_\_

  
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\_\_\_\_\_

  
\_\_\_\_\_

**RECORDED**  
JAN 19 2010  
J. Philip Milam  
MUNICIPAL CLERK

JAN 19 2010

ADVERSED BY  
CITY COUNCIL

CITY COUNCIL  
ATLANTA, GEORGIA

January 29, 2010

J. Phillip Milam, Esquire  
P.O. Box 956669  
Duluth Georgia 30095

**10-R-0113**

**RE: Estate of Everett Johnson**

Dear Attorney Milam

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 January 19, 2010. 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. 09L0922

Date: December 17, 2009

Claimant /Victim: The Estate of Everett Johnson, a minor

BY:(Atty)(Ins. Co.) J. Philip Milam

Address: Gary Martin Hays & Associates, PC, P.O. Box 956669, Duluth, GA 30095

Subrogation: Claim for Property damage \$ Bodily Injury \$ 5,000,000.00

Date of Notice: 11/12/09 Method: Written, proper X Improper         

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

Date of Occurrence: 9/15/09 Place: Hobart Drive near Vanderbilt Drive

Department:          Bureau:          Office:         

Employee involved:          Disciplinary Action:         

NATURE OF CLAIM: The Estate of the claimant alleges that he sustained a fatal injury when he was struck by an Atlanta Public School bus. The investigation determined that the vehicle that struck the claimant was owned and operated by the Atlanta Public School System which is a separate legal entity from the City of Atlanta. The claimant has been advised to pursue their claim with the Atlanta Public School System

INVESTIGATION:

Statements: City employee          Claimant          Others          Written          Oral         

Pictures          Diagrams          Reports: Police          Dept Report          Other         

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          Damages reasonable         

City not involved X Offer rejected          Compromise settlement         

Repair/replacement by Ins. Co.          Repair/replacement by City Forces         

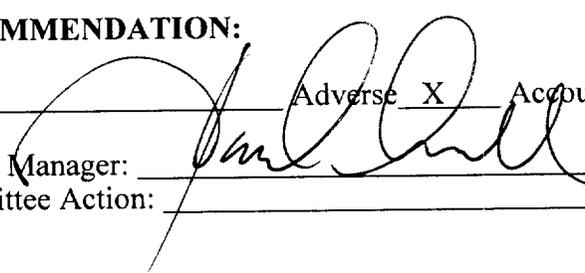
Claimant Negligent          City Negligent          Joint          Claim Abandoned         

Respectfully submitted,

  
INVESTIGATOR - ANGELENA KELLY

RECOMMENDATION:

Pay \$          Adverse X Account charged: General Fund          Water & Sewer          Aviation         

Claims Manager:  Concur/date 12/21/09

Committee Action:          Council Action

GARY MARTIN HAYS  
DEREK M. HAYS  
J. PHILIP MILAM  
ERIC B. RIPPER\*  
KELLIE BROOKS HENSON\*\*  
JACQUELINE M. PILAND\*\*\*

\* Also admitted in New York  
\*\* Also admitted in Massachusetts  
\*\*\* Also admitted in Oklahoma

Of Counsel  
LARRY J. POLSTRA

LAW OFFICES OF

**GARY MARTIN HAYS  
& ASSOCIATES, P.C.**

www.garymartinhays.com  
www.repairrefund.com

Wrongful Death • Personal Injury • Worker's Compensation

**Office: (770) 934-8000**

Toll Free: (888) 934-8100

ENTERED - 11-24-09 - SB  
0910922 - A, KELLY  
November 4, 2009

NOV 10 10:00 AM  
Keg...  
JD  
+  
SS  
**Atlanta Office**  
P. O. Box 956669  
Duluth, GA 30095  
(770) 934-8000  
PI Fax (770) 934-1631  
WC Fax (770) 934-8801

**Athens Office**  
3810A Atlanta Highway  
Bogart, Georgia 30622  
(706) 543-4600  
Fax: (706) 543-7600

**VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

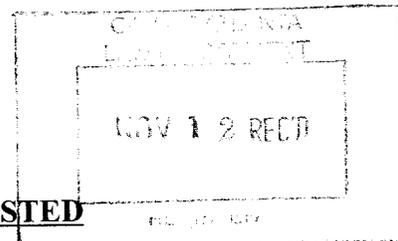
Atlanta Public Schools  
Beverly Hall, Superintendent  
130 Trinity Ave., S.W.  
Atlanta, GA 30303

Veleter Mazzyck  
Atlanta Public Schools General Counsel  
130 Trinity Avenue, SW  
8th Floor, Legal Dept  
Atlanta, GA 30303

Atlanta Board of Education  
Cecily Harsch- Kinnane  
130 Trinity Ave., S.W.  
Atlanta, GA 30303

Honorable Shirley Franklin  
Mayor, City of Atlanta  
55 Trinity Avenue  
Atlanta, GA 30303

Kelly  
01/18/09



**NOTICE OF CLAIMS PURSUANT TO O.C.G.A. § 36-33-5  
OF RODRIGUEZ JOHNSON FOR MEDICAL BILLS, PAIN AND SUFFERING, AND  
ALL OTHER CLAIMS ARISING OUT OF THE INJURIES AND WRONGFUL DEATH  
SUFFERED BY EVERETT JOHNSON, A MINOR**

Please be advised that the law firms of Gary Martin Hays and Associates, P.C. and Thornton Law Firm, P.C. represents Rodriguez Johnson in regard to any and all claims against the Atlanta Public Schools and others arising out of an incident involving Sharon Dale that occurred on the afternoon of September 15, 2009 near Hobart Drive and Vanderbilt Drive, Atlanta, Georgia, in which Sharon Dale ran over and killed minor Everett Johnson while driving a city school bus. This incident caused Everett Johnson to incur physical injuries, medical expenses, pain and suffering, and loss of life.

Pursuant to O.C.G.A. § 36-33-5 as counsel for Mr. Rodriguez Johnson, and within the six (6) month period required by statute, we are presenting his wrongful death and estate claim seeking any and all damages allowed under Georgia law. While our investigation is still ongoing, we believe the value of this claim to exceed five million dollars (\$5,000,000.00).

At the time of the incident, which occurred during the afternoon on September 15, 2009, Everett Johnson was getting off the school bus when he dropped his book bag. He went to retrieve it and was subsequently run over by the school bus driven by Sharon Dale, an employee of Atlanta Public Schools.

Rodriguez Johnson contends Sharon Dale was negligent in failing to ensure that all of the children exiting the bus were at a safe distance away from the bus before moving forward. Rodriguez further contends that Atlanta Public Schools were negligent in training and supervising Sharon Dale to ensure the utmost safety of the children entrusted to their care.

This notice is given pursuant to O.C.G.A. § 36-33-5 in order to afford the Atlanta Public Schools, its agents, employees, lessees, assigns, affiliates, and successors, and their insurance carriers, if any, sufficient information to allow an investigation of these claims, and to adjust and settle these claims if they so desire. } Sal/

Additionally, pursuant to the Georgia Open Records Act, we are requesting that you provide us with the names of all persons and entities involved in supervision and training of all bus drivers.

Finally, we hereby request that you preserve, maintain, and do not alter or change any of the following records:

1. Investigative reports, memoranda, and statements concerning this incident;
2. Witness statements concerning the incident;
3. Surveillance videotapes of the subject area for the date of the incident;
4. Photographs of the area involved in this claim on the date of the incident; and,
5. Photographs of the injuries Everett Johnson sustained;

These documents are relevant and important to our investigation and prosecution of any claims related to this incident. If these documents are destroyed or altered in any manner, we will seek any sanctions allowed under the law.

If you contend this letter does not provide you with sufficient notice pursuant to O.C.G.A. § 36-33-5, or comply with said statute, please advise us immediately in writing, and we will correct any deficiencies. We look forward to hearing from you on this matter.

10- R -0113

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

With kind regards.

Very truly yours,  
LAW OFFICES OF  
GARY MARTIN HAYS & ASSOCIATES, P.C.  
Attorneys for Plaintiff

A handwritten signature in cursive script, appearing to read "J. Philip Milam".

J. Philip Milam, Esq.

JPM/jpm  
Enclosure  
cc: Everett Johnson

RCS# 17  
1/19/10  
1:54 PM

Atlanta City Council

REGULAR SESSION

CONSENT I

10-R-0145

ADOPT EXCEPT

YEAS: 14  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 1  
EXCUSED: 0  
ABSENT 1

Y Smith	Y Archibong	Y Moore	Y Bond
Y Hall	Y Wan	Y Martin	Y Watson
Y Young	Y Shook	Y Bottoms	Y Willis
B Winslow	Y Adrean	Y Sheperd	NV Mitchell

CONSENT I