

Entered - 8-18-08 sb
CL 08L0715 GWENDOLYN BURNS

CLAIM OF: VERIZON WIRELESS
C/O Joel A. Berry, CPA
J. Berry & Company
P.O. Box 671151
Marietta, Georgia 30066

10-R -0370

For damages alleged to have been sustained from a real estate lease overpayment from October 2001 through April 2006 at 55 Trinity Street, SW.

MAR 01 2010

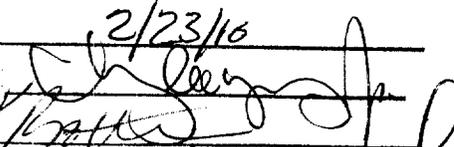
THIS ADVERSED REPORT IS APPROVED

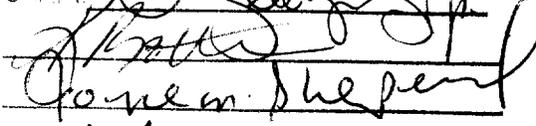
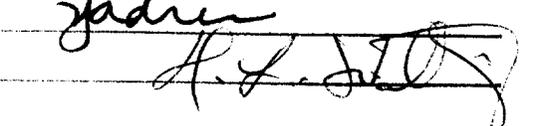
BY: 
JERRY L. DELOACH
DEPUTY CITY ATTORNEY

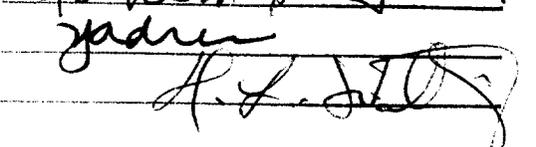
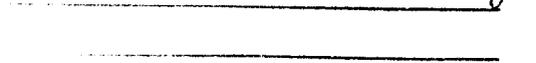
ADVERSE REPORT

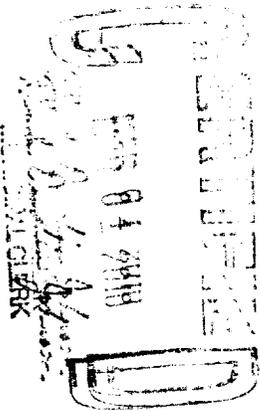
PUBLIC SAFETY &
LEGAL ADMINISTRATION COMMITTEE

DATE: 2/23/10

CHAIR: 



MAR 01 2010

ADVERSED BY
CITY COUNCIL



OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON
MUNICIPAL CLERK

55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30335
(404) 330-6030
FAX (404) 658-6273

March 9, 2010

Verizon Wireless
C/o Joel A. Berry, CPA
J. Berry & Company
Marietta Georgia 30066

10-R-0370

Dear Mr. Berry

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 March 1, 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.**

Sincerely,


Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 08L0715

Date: December 29, 2009

Claimant /Victim VERIZON WIRELESS
BY: (Atty) (Ins. Co.) C/O JOEL A. BERRY, CPA J. BERRY & COMPANY
Address: P.O. Box 671151, Marietta, GA 30066
Subrogation: Claim for Property damage \$ 6,322.82 Bodily Injury \$
Date of Notice: 8/14/08 Method: Written, Proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 10/01 - 4/06 Place: 55 Trinity Street, SW
Department FINANCE Bureau: Office:
Employee involved Disciplinary Action:

NATURE OF CLAIM: Claimant alleges that it sustained damages when it overpaid lease payments for two agreements in the above amounts. However, an investigation of City records have determined that the claimant applied the amount as a credit to their bill in 2007 and is current with its payments.

INVESTIGATION:

Statements: City employee Claimant Others Written Oral
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,

[Signature]
INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ Adverse X Account charged: General Fund Water & Sewer Aviation
Claims Manager: [Signature] Concur/date 02/12/10
Committee Action: Council Action

J. Berry & Company

P.O. Box 671151
Marietta, GA 30066
(770) 579-5966 Office
(678) 623-3081 Fax

March 23, 2006

City of Atlanta Dept. of Administrative Services
Suite 3250 City Hall Tower
68 Mitchell Street, S.W.
Atlanta, GA 30335-0303

ENTERED - 8-18-08 - SB
08L0715 - G. BURNS

10- R -0370

Re: Verizon Wireless Contract # 223 I-20/Exit 17
Verizon Wireless Contract #224 Buckhead Fire Station

Dear Sir or Madam:

This firm is conducting an audit of real estate lease payments for Verizon Wireless. Based on our audit, it appears as though our client has overpaid its rent obligation for the above referenced sites.

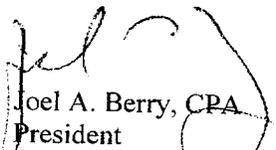
According to Section 2B of the Agreements, there shall be an adjustment of the Rent beginning on the day after the one year anniversary of the Rent Commencement Date and again on each anniversary of such date thereafter, per CPI-U, US City Average, most recent published index, not to exceed 3%. We have prepared a schedule of rent increases calculated in accordance with Section 2B of the Agreements. The amounts paid since 2001 do not coincide with these calculations. Accordingly, rent has been overpaid by the sum of \$4,354.88 for contract #223 and \$1,967.94 for contract #224, respectively.

Please compare this information with your records and advise us of any discrepancy. If there is none, we request your cooperation in issuing a refund of the amounts that have been overpaid to date. Please make your check in the aggregate amount of \$6,322.82 payable to Verizon Wireless and forward it in the enclosed envelope to my attention at P.O. Box 671151, Marietta, GA 30066. If you have any questions regarding this matter, please feel free to contact me.

We would appreciate your prompt reply.

Regards,

J. BERRY & COMPANY, COMMERCIAL LEASEHOLD ANALYSTS


Joel A. Berry, CPA
President
joel.berry@jberrandcompany.com

cc:
City of Atlanta Law Dept.
City Attorney
Suite 4100 City Hall Tower
68 Mitchell Street, S.W.
Atlanta, GA 30335-0332

		03-01-10
ITEMS ADOPTED ON CONSENT	ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT
1. 10-O-0275	36. 10-R-0350	42. 10-R-0356
2. 10-O-0276	37. 10-R-0351	43. 10-R-0357
3. 10-O-0277	38. 10-R-0352	44. 10-R-0358
4. 10-O-0278	39. 10-R-0353	45. 10-R-0359
5. 10-O-0279	40. 10-R-0354	46. 10-R-0360
6. 10-O-0289	41. 10-R-0355	47. 10-R-0361
7. 10-O-0290		48. 10-R-0362
8. 10-O-0291		49. 10-R-0363
9. 10-O-0292		50. 10-R-0364
10. 10-O-0293		51. 10-R-0365
11. 10-O-0294		52. 10-R-0366
12. 10-O-0296		53. 10-R-0367
13. 10-O-0241		54. 10-R-0368
14. 10-O-0307		55. 10-R-0369
15. 10-R-0334		56. 10-R-0370
16. 10-R-0335		57. 10-R-0371
17. 10-R-0390		58. 10-R-0372
19. 10-R-0395		59. 10-R-0373
20. 10-R-0407		60. 10-R-0374
21. 10-R-0411		61. 10-R-0375
22. 10-R-0394		62. 10-R-0376
23. 10-R-0396		63. 10-R-0377
24. 10-R-0338		64. 10-R-0378
25. 10-R-0339		65. 10-R-0379
26. 10-R-0340		66. 10-R-0380
27. 10-R-0341		67. 10-R-0381
28. 10-R-0342		68. 10-R-0382
29. 10-R-0343		69. 10-R-0383
30. 10-R-0344		70. 10-R-0384
31. 10-R-0345		71. 10-R-0385
32. 10-R-0346		
33. 10-R-0347		
34. 10-R-0348		
35. 10-R-0349		