

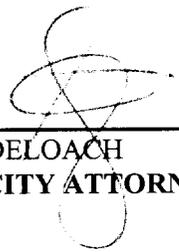
Entered - 10-6-08 sb  
CL 08L0849 - GWENDOLYN BURNS

10- R -0459

CLAIM OF: **MELISSA CLARK,  
ON BEHALF OF HER SON  
MONTELLIS CLARK, DECEASED**  
1148 McDaniel Street, SW  
Atlanta, Georgia 30310

For damages alleged to have been sustained from a shooting on  
July 15, 2008 at 976 Cascade Avenue, SW.

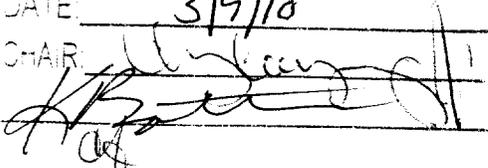
THIS ADVERSED REPORT IS APPROVED

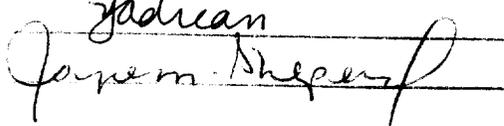
BY:   
\_\_\_\_\_  
JERRY L. DELOACH  
DEPUTY CITY ATTORNEY

**ADVERSE REPORT**

PUBLIC SAFETY &  
LEGAL ADMINISTRATION COMMITTEE

DATE: 3/9/10

CHAIR: 

*Adrian*  


MAR 15 2010

MAR 15 2010

ADVERSED BY  
CITY COUNCIL

MAR 15 2010



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 19, 2010

Ms. Melissa Clark  
1148 MDaniel Street, SW  
Atlanta Georgia

**10-R-0459**

Dear Ms. Clark

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 15, 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*

Rhonda Dauphin Johnson, CMC  
Municipal Clerk

**cc: Claims Division/Law Department**

**SDEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY**

Claim No. 08L0849

Date: February 15, 2010

Claimant /Victim MELISSA CLARK ON BEHALF OF HER SON MONTELLIS CLARK, DECEASED  
BY: (Atty) (Ins. Co.) \_\_\_\_\_  
Address: 1148 McDaniel Street, Atlanta, Georgia 30310  
Subrogation: \_\_\_\_\_ Claim for Property damage \$ \_\_\_\_\_ Bodily Injury \$ 20,000,000.00  
Date of Notice: 10/03/08 : Written, Proper X Improper \_\_\_\_\_  
Conforms to Notice: O.C.G.A. §36-33-5 \_\_\_\_\_ X Ante Litem (6 Mo.) \_\_\_\_\_ X  
Date of Occurrence 7/15/08 Place: 976 Cascade Avenue, SW  
Department POLICE Bureau: \_\_\_\_\_ Office \_\_\_\_\_  
Employee involved C. Tosh, G. Dubose Disciplinary Action: \_\_\_\_\_

NATURE OF CLAIM: Claimant alleges that she sustained damages when her son was shot by Police at the above location. However an investigation determined that the deceased claimant pulled a gun on Police and commenced to fire after being asked by police to show his hands. Notwithstanding this fact, the operation of the department is a governmental function and the City is immune from liability pursuant to O.C.G.A. §36-33-1.

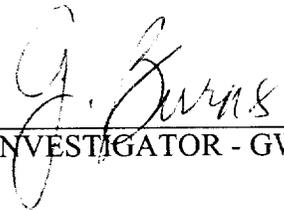
**INVESTIGATION:**

Statements: City employee \_\_\_\_\_ Claimant \_\_\_\_\_ Others \_\_\_\_\_ Written \_\_\_\_\_ Oral \_\_\_\_\_  
Pictures \_\_\_\_\_ Diagrams \_\_\_\_\_ Reports: Police X Dept Report \_\_\_\_\_ Other X  
Traffic citations issued: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_  
Citation disposition: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_

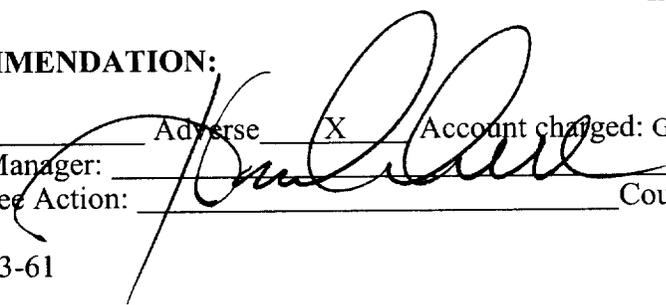
**BASIS OF RECOMMENDATION:**

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,

  
\_\_\_\_\_  
INVESTIGATOR - GWENDOLYN BURNS

**RECOMMENDATION:**

Pay \$ \_\_\_\_\_ Adverse X Account charged: General Fund \_\_\_\_\_ Water & Sewer \_\_\_\_\_ Aviation \_\_\_\_\_  
Claims Manager:  Concur/date 02/22/10  
Committee Action: \_\_\_\_\_ Council Action \_\_\_\_\_

COUNCIL OF THE CITY OF ATLANTA  
MUNICIPAL CLERK  
City Hall  
55 Trinity Avenue, SW  
Atlanta, Georgia 30303

RE: CLAIM FOR DAMAGES

Today's Date: Oct. 2, 2008

Dear Municipal Clerk:

ENTERED - 10-6-08 - SB  
08L0849 - G. BURNS

BURNS  
10/03/08  
*[Signature]*

This is to notify the City of Atlanta that I have suffered damages in the amount of \$ \_\_\_\_\_ property and/or \$ 20 million bodily injury for which I contend the City is liable.

1. Date of incident: 7-15-08 2. Time of incident: 10:25 3. Police called: YES
4. Location of incident (including street address): 976 CASCADE AVE
5. Name of your insurance company: \_\_\_\_\_ Policy No. \_\_\_\_\_
6. State what and how incident occurred: \_\_\_\_\_

7. ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!

8. The registered owner must make the claim for vehicle damages, complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle.

Your vehicle: \_\_\_\_\_  
(Make) (Year) (Tag Number) (Driver's Name)

City vehicle: \_\_\_\_\_  
(Make) (City Driver's Name) (Department/Bureau)

9. Witness: \_\_\_\_\_

10. The acknowledgement of this claim in no way waives the Sovereign immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and/or its employee(s).

11. Claims must be received within 6 months from the date of the event.

I HEREBY SWEAR OR AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

Melissa Clark  
Signature of Claimant

MELISSA CLARK  
(Print Claimant's Name)

1294 EASTRIDGE RD SW  
(Address)

ATLANTA GA. 30311  
(City, State and Zip Code)

(404) 604-4636 (cell)  
(Work Number) (Home Number)

08/08/09

1 NUM. 1 MELISSA CLARK

SEPTEMBER 2, 2008

TO: THE ATLANTA POLICE DEPARTMENT  
OF PROFESSIONAL STANDARDS SGT. GRIFFIN  
RE: INCIDENT JULY 15<sup>TH</sup> 2008  
INCIDENT REPORT # 08-197-0794

TO WHOM IT MAY CONCERN,

ON JULY 15<sup>TH</sup> 2008 MY SON MONTELLIS CLARK  
WAS SHOT AND KILLED BY ATLANTA POLICE  
IN AN INCIDENT INVOLVING 2 PLAIN CLOTHES  
OFFICERS.

OFFICERS

1. C. TOSH AND G. DUBOSE, NEVER IDENTIFIED  
THEMSELVES AS OFFICERS

INCIDENT

2. IN THE CONFRONTATION MY SON WAS SHOT  
AFTER MY SON WAS DOWN AND UNARMED  
AND SECURED OFFICER C. TOSH STOOD OVER  
MY SON AND SHOT HIM MULTIPLE TIMES.  
OFFICER G. DUBOSE WAS DOWN ALSO.

VIOLATION OF CONDUCT

MY COMPLAINT CONTINUES TO WHERE I FEEL  
THAT THE CONDUCT OF THE OFFICERS WAS  
A VIOLATION OF THE CODES.

## POLICE VEHICLE

I NOW BRING MY COMPLAINT TO  
A CLOSE AND I REQUEST ANY  
INFORMATION ON THE UNMARKED  
POLICE VEHICLE (FIRST VEHICLE ON THE SCENE.)  
WAS IT EQUIPPED WITH A VIDEO CAMERA.

ONCE THIS INVESTIGATION IS  
COMPLETE I'M SURE THAT THE FINDINGS  
WILL SHOW VIOLATIONS, BECAUSE THE  
AUTOPSY REPORT WILL PROVE ADDITIONAL  
UNNECESSARY GUNSHOTS TO THE BODY.  
I FEEL THAT THERE WERE VIOLATIONS OF  
OUR RIGHTS.

SINCERLY

MELISSA CLARK  
(404) 604-4636

10-R-0459

RCS# 124  
3/15/10  
2:18 PM

Atlanta City Council

REGULAR SESSION

CONSENT I

ADOPT

YEAS: 13  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 1  
EXCUSED: 0  
ABSENT 2

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

CONSENT I