

13-R-3072

Entered - 12-27-11 SB
CL 11L1008- APD/04 - JANINE J. EDMONDS

CLAIM OF: **Garry Davis, through his attorney Neil Flit, Esq., Law Offices of Neil Flit**
3355 Lenox Road, Suite 750
Atlanta, Georgia 30326

For bodily injury alleged to have been sustained as a result of a motor vehicle accident on December 7, 2011, at 1123 Ralph D. Abernathy Boulevard.

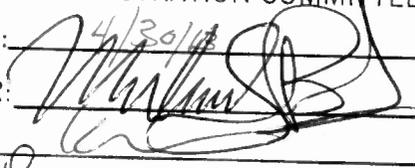
THIS ADVERSED REPORT IS APPROVED

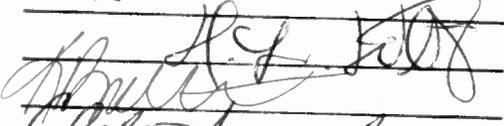
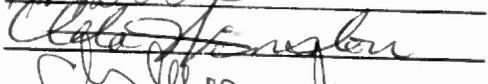
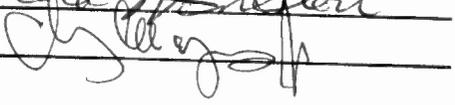
BY: 
ERIC RICHARDSON
DEPUTY CITY ATTORNEY

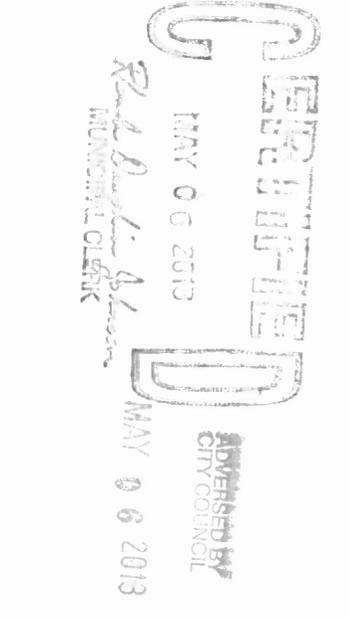
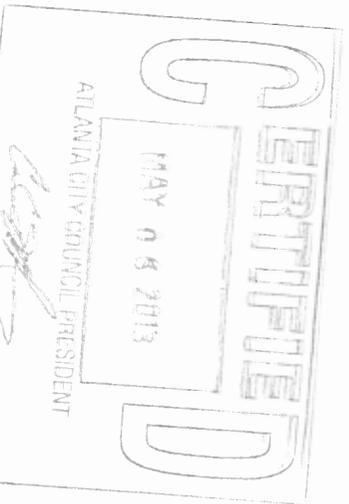
ADVERSE REPORT

PUBLIC SAFETY &
LEGAL ADMINISTRATION COMMITTEE

DATE: 4/30/12

CHAIR: 





CITY OF ATLANTA
OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON, CMC
MUNICIPAL CLERK

55 TRINITY AVENUE, S.W.
SUITE 2700
ATLANTA, GEORGIA 30303
Main (404) 330-6033
Fax (404) 658-6103
Email municipalclerk@atlantaga.gov

May 13, 2013

Garry Davis
c/o Attorney Neil Flit
3355 Lenox Road
Suite 750
Atlanta, Georgia 30326

13-R-3072

Dear Mr. Davis:

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 May 3, 2013.

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. 11L1008

Date: April 5, 2013

Claimants /Victim: Garry Davis

BY: (Atty) (Ins. Co.) Neil Flit, Law Office of Neil Flit

Address: 3355 Lenox Road, Suite 750, Atlanta, Georgia 30326

Subrogation: Claim for Property damage \$ Bodily Injury \$ 25,000

Date of Notice: 12/27/11 Method: Written, Proper X Improper

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

Date of Occurrence: 12/07/11 Place: 1123 Ralph D. Abernathy Blvd

Department: Police Bureau: Office:

Employee involved: Jason Uhler Disciplinary Action: 1-day suspension

NATURE OF CLAIM: Claimant alleges bodily injury sustained when the city vehicle struck the claimant's vehicle. The investigation determined the claimant failed to yield the right-of-way as he pulled into the street blocking both lanes.

INVESTIGATION:

Statements: City employee X Claimant X Others Written X Oral

Pictures X Diagrams X Reports: Police X Dept Report: X 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 Damages reasonable

City not involved Offer rejected Compromise settlement

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

Claimant Negligent X City Negligent Joint Claim Abandoned

Respectfully submitted,

[Signature] Edmonds
INVESTIGATOR - JANINE J. EDMONDS

RECOMMENDATION:

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

Claims Manager/Director: [Signature] Concur/date 4/8/13

Deputy City Attorney: Concur/date

Committee Action: Council Action

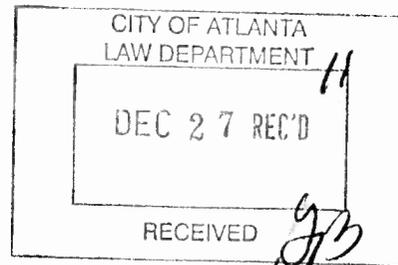


Law Office of Neil Flit

Licensed in Georgia & Tennessee

VIA U.S. Certified Mail
December 20, 2011
404.330.6400
City of Atlanta
Attn: Cathy Hampton
68 Mitchell Street, Suite 4100
Atlanta, GA 30303

Entered – 12-27-11 – GB
11L1008 – W. HAYES



OUR CLIENT: Mr. Garry Davis
Date of Incident: 12/07/2011

Hayes
12/27/11
GB

REQUEST TO PRESERVE EVIDENCE

Dear Ms. Hampton:

As you may be aware, my firm represents Mr. Garry Davis for personal injuries resulting from a Incident which occurred on December,07 2011, in Atlanta, Georgia. This letter is to formally demand the preservation of certain evidence related to this incident. If you fail to properly secure and preserve these important pieces of evidence it will give rise to the legal presumption that the evidence would not have been harmful to your side of the case. See: Lane v. Montgomery Elevator Co., 225 Ga. App. 523, 484 S.E. 2d 249 (1997), J.B. Hunt Transport, Inc. v. Bently, 207 Ga. App 250, 427 S.E. 2d 499 (1992), Bennett v. Associated Food Stores, Inc., 118 Ga App. 711, 165 S.E. 2d 581 (1968) and O.C.G.A. 24-4-22). If you fail to preserve and maintain this evidence, we will seek any sanctions available under the law. In Georgia please see: R. A. Siegel Co. v. Bowen, 246 Ga. App. 177, 539 S.E.2d 873 (2000), Chapman v. Auto-Owners, Ins. Co., 220 Ga. App. 539, 469 S.E. 2d 783 (1986), and Sharpnach v. Hoffinger Industrial, Inc., A 97 A 25555, 98 FCDR 1362 (3/17/98). The destruction, alteration, or loss of any of the below constitutes a spoliation of evidence under Georgia law. We specifically request that the following evidence be maintained and preserved and not be destroyed, modified, altered, repaired, or changed in any manner:

1. **Video Recording of Incident involving Mr. Garry Davis on or about December 07, 2011.**
2. **Incident Report involving Mr. Garry Davis on or about December 07, 2011.**

Our firm respectfully requests that you preserve and send the video and incident report of the aforementioned incident for inspection.

Please feel free to call us if you have any further questions.

Cordially,
LAW OFFICE OF NEIL FLIT
Neil R. Flit
Neil R. Flit
Attorney at Law

+

		05-06-13
ITEMS ADOPTED ON CONSENT	ITEMS ADOPDED ON CONSENT	ITEMS ADVERSED ON CONSENT
1. 13-O-0599	40. 13-R-3103	77. 13-R-3043
2. 13-O-0629	41. 13-R-3104	78. 13-R-3044
3. 13-O-0643	42. 13-R-3085	79. 13-R-3045
4. 13-O-0119	43. 13-R-3086	80. 13-R-3046
5. 13-O-0632	44. 13-R-3087	81. 13-R-3047
6. 13-O-0639	45. 13-R-3088	82. 13-R-3048
7. 13-O-0638	46. 13-R-3089	83. 13-R-3049
8. 13-O-0640	47. 13-R-3090	84. 13-R-3050
9. 13-O-0648	48. 13-R-3014	85. 13-R-3051
10. 13-O-0592	49. 13-R-3015	86. 13-R-3052
11. 13-O-0628	50. 13-R-3016	87. 13-R-3053
12. 13-O-0630	51. 13-R-3017	88. 13-R-3054
13. 13-R-3091	52. 13-R-3018	89. 13-R-3055
14. 13-R-3092	53. 13-R-3019	90. 13-R-3056
15. 13-R-3094	54. 13-R-3020	91. 13-R-3057
16. 13-R-3095	55. 13-R-3021	92. 13-R-3058
17. 13-R-3096	56. 13-R-3022	93. 13-R-3059
18. 13-R-3097	57. 13-R-3023	94. 13-R-3060
19. 13-R-3093	58. 13-R-3024	95. 13-R-3061
20. 13-R-3098	59. 13-R-3025	96. 13-R-3062
21. 13-R-3100	60. 13-R-3026	97. 13-R-3063
22. 13-R-3101	61. 13-R-3027	98. 13-R-3064
23. 13-R-3106	62. 13-R-3028	99. 13-R-3065
24. 13-R-3003	63. 13-R-3029	100. 13-R-3066
25. 13-R-3004	64. 13-R-3030	101. 13-R-3067
26. 13-R-3005	65. 13-R-3031	102. 13-R-3068
27. 13-R-3006	66. 13-R-3032	103. 13-R-3069
28. 13-R-3007	67. 13-R-3033	104. 13-R-3070
29. 13-R-3008	ITEMS ADVERSED ON CONSENT	105. 13-R-3071
30. 13-R-3009	68. 13-R-3034	106. 13-R-3072
31. 13-R-3010	69. 13-R-3035	107. 13-R-3073
32. 13-R-3011	70. 13-R-3036	108. 13-R-3074
33. 13-R-3013	71. 13-R-3037	109. 13-R-3075
34. 13-R-3000	72. 13-R-3038	110. 13-R-3076
35. 13-R-3001	73. 13-R-3039	111. 13-R-3077
36. 13-R-3002	74. 13-R-3040	112. 13-R-3078
37. 13-R-3083	75. 13-R-3041	113. 13-R-3079
38. 13-R-3084	76. 13-R-3042	114. 13-R-3080
39. 13-R-3102		115. 13-R-3081
		116. 13-R-3082