Entered -04-10-00 - sb
CL 00L0206 - GWENDOLYN BURNS

CLAIM OF: **01- -1634**

RICKY BARBER
through his attorney,
Stephen D. Apolinsky, Esq.
EASTMAN & APOLINSKY
The Watkins Building
114 East Ponce de Leon Avenue
Decatur, Georgia 30030

For bodily injuries alleged to have been sustained when the vehicle in which he traveled in was driven over a sanitary sewer construction site that was not properly covered in the roadway on September 25, 1999 at 934 Custer Avenue, SE.

THIS ADVERSED REPORT IS
APPROVED

BY: _____
ROBERT N. GODFREY
DEPUTY CITY ATTORNEY

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0206 Date: September 25, 2001

Claimant /Victim **RICKY BARBER**
BY: (Atty) (Ins. Co.) Stephen D. Apolinsky, Esq., EASTMAN & APOLINSKY
Address: The Watkins Building, 114 East Ponce de Leon Avenue, Decatur, Georgia 30030
Subrogation: _____ Claim for Property damage $_____ Bodily Injury $ 16,881.00
Date of Notice: 4/3/00 Method: Written, Proper X Improper _____
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 9/25/99 Place: 934 Custer Avenue
Department PUBLIC WORKS Bureau: _____ Division Sewer Operations
Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: Claimant alleges that he sustained bodily injuries when the vehicle in which he traveled in was driven over a metal plate that was partially covering a sanitary sewer construction site in the roadway. However, the claimant has filed a lawsuit to resolve the issues of this claim.

INVESTIGATION:

Statements: City employee X Claimant _____ Others _____ Written _____ Oral X
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 X
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 _____ City Negligent X Joint _____ Claim Abandoned _____

Respectfully submitted,

INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay $ _____ Adverse X Account charged: 1A01 _____ 2J01 _____ 2H01 ___
Claims Manager: _____ Concur/date 09-26-01
Committee Action: _____ Council Action _____

FORM 23-61

EASTMAN & APOLINSKY

A LIMITED LIABILITY PARTNERSHIP

ATTORNEYS AT LAW

THE WATKINS BUILDING
114 EAST PONCE DE LEON AVENUE
DECATUR, GEORGIA 30030

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STEPHEN D. APOLINSKY: SAPOLINSKY@AOL.COM

BURNS
04/05/00

March 23, 2000

ENTERED - 4-10-00 - SB
00L0207 - GWEN BURNS

Honorable William C. Campbell
City Hall, Suite 2400
55 Trinity Avenue, S.W.
Atlanta, Georgia 30335

VIA CERTIFIED MAIL #7099 3400 0007 4113 1179

Susan Langford, Esq.
City of Atlanta Law Department
68 Mitchell Street
Atlanta, Georgia 30335

VIA CERTIFIED MAIL #7099 3400 0007 4113 1162

RE: Ante Litem Notice to the City of Atlanta and Fulton County concerning Janice Brown and Ricky Barber Automobile accident of September 25, 1999

Dear Mayor Campbell and Ms. Langford:

This firm represents Ms. Janice Brown and Mr. Ricky Barber. This letter shall serve as an ante litem notice of their personal injury claim pursuant to O.C.G.A. §§36-11-1 and 36-33-5. Ms. Brown and Mr. Barber intend and hereby do assert their claim against the City of Atlanta, its departments and agencies for injuries they sustained when the vehicle, in which they were passengers, drove into an uncovered hole on Custer Avenue. See enclosed photographs of the area of the incident. Said incident occurred on September 25, 1999.

As a result of the incident, Ms. Brown sustained injuries to her head, neck and back. Mr. Barber, in turn, also sustained injuries to his neck and back. At the time of the incident, paramedics were dispatched to the scene and both Ms. Brown and Mr. Barber were transported to Grady Memorial Hospital were they obtained emergency medical treatment. Ms. Brown and Mr. Barber both sought additional medical care from Dr. William Hovis of the Gordon Street Chiropractic Clinic. Both Ms. Brown and Mr. Barber received physical therapy treatment for the injures they sustained. To date, Ms. Brown's medical expenses total $2,833.00. To date, Mr. Barber's medical expenses total $2,526.50. See enclosed medical bills and medical reports for Ms. Brown and Mr. Barber, respectively.

At the time of the incident Ms. Brown was employed as a housekeeper with the Atlanta Marriot Marquis. Due to the injuries she sustained, Ms. Brown was unable to return to work and was placed on disability status by Dr. Hovis. Dr. Hovis cleared Ms. Brown to return to work on November 22, 1999.

Due to her inability to perform her job duties, Ms. Brown has missed approximately 8 weeks of work; therefore, her lost wages to date total $2,048.00.

In addition, Ms. Brown and Mr. Barber each have a claim for pain and suffering. It took weeks for Ms. Brown and Mr. Barber to fully recover from the physical and mental pain they suffered from their injuries which were caused by the incident.

Pursuant to O.C.G.A. §§36-11-1 and 36-33-5, the City of Atlanta and Fulton County have thirty (30) days from the presentation of the claim to effect settlement. Demand is hereby made to pay Ms. Brown the sum of $16,881.00 and Mr. Barber the sum of $14,526.50 for their injuries. The City of Atlanta and each of its respective department and agencies, failed to warn of the danger posed by the uncovered hole which was the proximate cause of Ms. Brown and Mr. Barber's injuries. Failing settlement of this claim, a civil action in a court of competent jurisdiction and venue shall be instituted on behalf of our clients for the recovery of actual, general and special damages, plus the cost of litigation.

Sincerely yours,

Stephen D. Apolinsky

SDA/tbf

enclosures
cc: Ms. Janice Brown
Mr. Ricky Barber

01- R-1634