

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 10L0797

Date: May 21, 2014

Claimant /Victim DARLENE L. HARRIS
BY: (Atty) (Ins. Co.) BUCKLEY & KLEIN, LLP
Address: Atlantic Center Plaza, Suite 1100, 1180 West Peachtree Street, Atlanta, Georgia 30309
Subrogation: Claim for Property damage \$ Bodily Injury \$ Unspecified
Date of Notice: 9/8/10 Method: Written, Proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Month) X
Date of Occurrence 2/18/10 and 4/16/10 Place: 226 Peachtree Street
Department POLICE Bureau: Office:
Employee involved Disciplinary Action:

NATURE OF CLAIM: Claimant alleges bodily injuries sustained when Atlanta Police refused to allow her to return to work unless she was released to work without any restrictions. The investigation has determined the claimant will resolve the issues of her claim through litigation.

INVESTIGATION:

Statements: City employee X Claimant Others Written Oral X
Pictures Diagrams Reports: Police 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,
[Signature]
INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ Adverse X Account charged: General Fund Water & Sewer Aviation
Claims Director/Manager: [Signature] Concur/date 5/29/14
Deputy City Attorney: [Signature] Concur/date 5-30-14
Committee Action: Council Action

OFFICE OF THE MAYOR

SEP 08 2010

Referred to:

Pete
Andrews

BUCKLEY & KLEIN, LLP
ATTORNEYS AT LAW

v.g.
RECEIVED
CHERYL B. LEGARE
SEP 10 2010
E-MAIL
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EDWARD D. BUCKLEY
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ENTERED - 9-29-10 - SB
10L0797 - G. BURNS

CITY OF ATLANTA
DEPT OF LAW

OF COUNSEL
MICHAEL E. KRAMER

September 3, 2010

VIA FACSIMILE: (404) 658-6893
AND VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Receipt No. 7009 2820 0001 0465 5892

Mayor Kasim Reed
City of Atlanta
55 Trinity Avenue
Atlanta, Georgia 30303

VIA FACSIMILE: (404) 546-6887
AND VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Receipt No. 7009 2820 0001 0465 5885

George N. Turner
Chief of Police
City of Atlanta
Atlanta Police Department
226 Peachtree Street
Atlanta, Georgia 30303

Re: Officer Darlene ("Dani") L. Harris

Dear Mayor Reed and Chief Turner:

We represent Officer Darlene ("Dani") L. Harris with respect to claims Officer Harris has against the City of Atlanta and the City of Atlanta Police Department arising out the Police Department's refusal to return Officer Harris to work unless she is released to return to work with no restrictions. This apparent policy is a per se violation of the Americans with Disabilities Act Amendments Act and we demand that you return Officer Harris to work in her role of Gay Lesbian Bisexual Transgender Liaison ("GLBT Liasion") immediately.

BURNS

09/27/10

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Chief George N. Turner
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Officer Harris began employment with the City of Atlanta Police Department June 15, 2003. Officer Harris has been employed as the GLBT Liaison since November 2005. In this role, Officer Harris acts as the liaison for the GLBT community, the Director of Interns, and the Director of the Junior Cadets. Officer Harris performs her role admirably and she is well-loved in the community.

Officer Harris suffered a grand mal seizure in December 2009. At that time, the Police Department allowed Officer Harris to return to work because driving is not an essential function of her job.

On February 18, 2010 and April 16, 2010, Officer Harris was subjected to derogatory comments based on the fact that she is intersex by a civilian employee, Sandy Bradley. Ms. Bradley asked Officer Harris, "Why you gay, I don't understand?" Ms. Bradley told Officer Harris "You confused." She asked her "Why can't you settle in with a man and get the same feelings or emotions from a heterosexual relationship?" Ms. Bradley said, "I want to tell you something Harris, I really like you, but what I don't like about you is that you walk around here like a fucking man without a dick." Ms. Bradley also told Officer Harris that "if she ever had kids at the APD she would not be comfortable having her kids around" Officer Harris. Officer Harris was troubled by the comments and immediately reported her concerns about the derogatory comments to Human Resources.

Officer Harris suffered another grand mal seizure on April 14, 2010. On April 18, 2010, Officer Harris was told by Sergeant Sturdivant and Major Erika Shields not to report to work, to "get better." Officer Harris was also told that if she could not drive, she could not return to the police department in any capacity. At the time she was forbidden to return to work, both Sergeant Sturdivant and Major Shields were aware that Officer Harris had reported the derogatory comments to Human Resources. On April 27, 2010, Officer Harris complained about the derogatory comments and retaliation to Assistant Commissioner Alfred Elder.

As you know, Officer Harris has been released to return to work with only one restriction - she cannot drive until she has been seizure free for six months (October). Despite the fact that she has been released to return to work, the City of Atlanta Police Department forced Officer Harris to take continued medical leave because it refuses to accommodate her driving restriction, even though driving is not an essential function of her job as LGBT liaison. The Police Department's actions are a continuing violation of Officer Harris's rights under the Americans with Disabilities Act Amendments Act. The Police Department's actions also constitute interference and retaliation under the Family and Medical Leave Act.

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Now, Mr. Elder refuses to allow Officer Harris to use donated time to cover the forced medical leave because her doctor has released her to return to work. Officer Harris has not been paid since may and is suffering greatly. Mr. Elder's actions are blatant retaliation against Officer Harris for filing a Charge of Discrimination with the Equal Employment Opportunity Commission based on the Police Department's discrimination against her. Mr. Elder is well aware of the Charge that Officer Harris filed. However, Mr. Elder's position appears to be that the Police Department should return Officer Harris to work.

We agree with Mr. Elder that Officer Harris should be returned to work and we are writing to demand that you return her to work immediately. Time is of the essence because we are aware that Officer Harris has been replaced. We are also aware of your comments to the media that the City now plans to have two GLBT Liaisons in the Police Department. We have heard an unfortunate rumor that another Officer has been selected to replace Officer Harris. However, since that would be a blatant violation of federal law, we are certain that it is only a rumor.

Because Officer Harris has suffered, and continues to suffer, financially as result of the Police Department's discriminatory and retaliatory actions, it is imperative that she be permitted to return to work. Please contact me upon receipt of this correspondence so that we can discuss next steps to get Officer Harris back to work.

Sincerely,


Cheryl B. Legare

CBL/isl

cc: Darlene L. Harris