

1978 WL 207625 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 31, 1978

RE: Damage Claim of Benjamin Alexander

*1 Brigadier General James W. Henderson
Deputy Adjutant General
Military Department
1225 Bluff Road
Columbia, South Carolina 29201

Dear General Henderson:

I have reviewed the above-referenced claim as requested by your letter of May 22, 1978. It appears from the documents provided that Mr. Alexander claims that a stone from a National Guard truck broke the windshield of his vehicle. It is unclear whether the stone came from the back of the truck or was kicked up from the roadway by the wheels of the truck.

The state has waived sovereign immunity to a limited extent under the South Carolina Government Motor Vehicles Tort Claim Act, Section 15-77-210, et seq., South Carolina Code of Laws, 1976. Section 15-77-230 of that Act provides, inter alia, that:

Any person sustaining an injury by reason of the negligent operation of any motor vehicle while being operated by an employee of a government entity while in and about the official business of such government may recover in an action against such government entity such actual damages as he may sustain

Recovery for property damage is limited by the Act to a maximum of Five Thousand (\$5,000.00) Dollars. Recovery can be made against the state for the negligent operation by a state employee even if the motor vehicle was not owned by the state. 1969-70 Ops.Atty.Gen., No. 2889, p. 129.

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