

## Missing Manhole Cover in Buckhead Nets Injured Woman \$1.4M Jury Award



By **Greg Land**  
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The plaintiff was seriously injured when her car hit a manhole without a cover on Peachtree Road near Lenox Mall in Buckhead.

A Fulton County jury [awarded](#) \$1.4 million to a woman who sued the city of Atlanta after she was injured when her car hit an open manhole on Peachtree Road in Buckhead.

[Baskin Law Group](#) principal **Michael Baskin** said the manhole was several inches below the surface of the pavement and that the cover had not been removed but apparently sunk under the weight of traffic, allowing it to “flip” off.

“It was lying nearby,” said Baskin. “The city purportedly had no knowledge it was missing.” He said the Superior Court jurors told him they were particularly impressed by testimony that the city doesn’t inspect manholes and addresses issues only after someone reports one.

“The jury was very bothered by the fact that the city of Atlanta has no inspection protocols; instead, they wait for someone to be hurt or their car to be damaged, then go out and inspect it,” Baskin said.

The [suit](#) was defended by Torrey Smith and Sherida Mabon of the city Law Department. A spokesman said the city was disappointed in the verdict and considering whether to appeal.

According to Baskin and court filings, plaintiff Pamela Dale was driving home from work at Saks Fifth Avenue in Phipps Plaza when she hit the open manhole just in front of the Maggiano's Little Italy restaurant in August 2016. Dale's Mercedes sedan flew several feet in the air before landing and rolling another 15 yards, Baskin said.

Dale, now 51, suffered a compression fracture to her spine, multiple lacerations on her arm and permanent nerve damage to her arm and hand, Baskin said.

She accrued about \$89,000 in medical bills and was unable to perform her job for several weeks, and she had to work part-time for several more weeks.

Her car was a total loss, he said. "We thought at first this might have been a manhole explosion; it almost looked like the car had been torched. Oil and gas spewed everywhere," he said.

Baskin filed an ante litem notice asking for \$1.5 million, he said, "and the city passed on that." "They didn't make an offer until two days before trial, a \$160,000 nuisance offer," he said. "We laughed at that and went to trial."

During a 2½-day trial before Judge Eric Dunaway, Baskin said key testimony was provided by highway safety expert Joseph McHugh, who explained how the manhole cover likely flipped off and into the road.

Jurors also heard deposition testimony from a Department of Watershed Management manager that the city did not routinely inspect manholes, Mathis said. The city's portion of the pretrial order said there was no evidence that it had advance notice of any defect in the manhole prior to the accident. It also said the portion of Peachtree Road where the accident occurred is a state route and that its maintenance is therefore the state Department of Transportation's responsibility.

In closing arguments, Baskin said he asked the jury to award \$2.5 million. On Friday, he said the jury took about four hours to award \$1.4 million in damages. In conversation afterward, Baskin said the jurors' "only concern was what the appropriate amount to award was."

"They were absolutely appalled at the city lack of inspections," he said. Baskin said the city's lawyers, Smith and Mabon, "were very professional; they did a top-notch job."

He also hailed the judge. "Judge Dunaway is a trial attorney's judge, one of the best in the Superior Court," he said. "He lets attorneys try their case and doesn't get in the way."