

IN THE SUPERIOR COURT OF MILLER COUNTY
STATE OF GEORGIA

MARCUS OATES, SR., AS THE SOLE
SURVIVING PARENT OF MARCUS
OATES, JR., DECEASED AND AS
ADMINISTRATOR OF THE ESTATE
OF MARCUS LEON OATES, JR.,
DECEASED,

Plaintiff,

vs.

GEORGIA DEPARTMENT OF
TRANSPORTATION,

Defendant.

CIVIL ACTION NO.

**PLAINTIFF'S COMPLAINT FOR WRONGFUL DEATH AND
PERSONAL INJURIES**

COMES NOW, Plaintiff Marcus Oates, Sr. as the sole surviving parent of Marcus Oates, Jr., Deceased, and as Administrator of the Estate of Marcus Leon Oates, Jr., Deceased and files this his Complaint for Wrongful Death and Personal Injuries against Defendant Georgia Department of Transportation and shows the Court as follows:

Parties, Jurisdiction and Venue

1.

Plaintiff Marcus Oates, Sr. is a resident and citizen of Fort Valley, Peach County, Georgia. Plaintiff Marcus Oates, Sr. is the duly appointed Administrator of the Estate of Marcus Leon Oates, Jr, Deceased.

2.

Defendant Georgia Department of Transportation is a department of the State of Georgia which is subject to the jurisdiction of this Court by virtue of the facts hereinafter alleged and the application of O.C.G.A. § 50-21-20 et seq. Venue is proper in this Court by virtue of O.C.G.A. § 50-21-28 inasmuch as the loss which is the subject matter of this case occurred in Miller County, Georgia.

3.

Filed contemporaneously herewith as Exhibit "A" are true and correct copies of the Notices of Claim which were presented to the Georgia Department of Administrative Services, to the Georgia Department of Transportation and to the Attorney General of Georgia within twelve (12) months of the occurrence which is the subject matter of this case in accordance with O.C.G.A. § 50-21-26. Additionally, attached hereto as collective Exhibit "A", are copies of the original certified mail receipts for the Notice of Claim, identified herein as Exhibit "A", for the Commissioner of the Georgia Department of Transportation, Director of the Risk Management Division for the Georgia Department of Administrative Services, and the Attorney General of Georgia.

4.

This Complaint is being filed more than ninety (90) days after presentation of the Notices of Claim, during which no action has been taken with regard thereto by the Risk Management Division of the Department of Administrative Services.

5.

Defendant Georgia Department of Transportation (hereinafter "GDOT") is a governmental entity organized and existing under the laws of the State of Georgia. Defendant GDOT may be served with the Summons and Complaint as allowed by law.

6.

Pursuant to O.C.G.A. § 50-21-35, filed contemporaneously herewith, is an affidavit certifying that a copy of this Complaint has been mailed this date, by Certified Mail, Return Receipt Requested, to the Attorney General at his usual office address, which is:

Office of the Attorney General of Georgia
Christopher M. Carr, Attorney General
40 Capital Square, S.W.
Atlanta, Georgia 30334

Said certificate is affixed hereto and incorporated and made a part hereof as Exhibit "B".

7.

The Court has jurisdiction and venue over the parties and subject matter of this litigation.

GENERAL ALLEGATIONS

8.

Plaintiff incorporates all preceding paragraphs as if set forth fully herein.

9.

State Route 91 (hereinafter "Highway 91"), in Miller County, Georgia, at or near milepost 18.6, consisted of two (2) lanes of travel in April, 2016.

10.

State Route 91 was designed, constructed, inspected and maintained at the direction of, and under the supervision of Defendant GDOT, and said Highway is a part of the State Highway System of Georgia prior to, on and following April, 2016.

11.

At approximately 7:20 p.m. on April 2, 2016, Plaintiff Marcus Oates, Sr. was driving a 2003 Lincoln Navigator in a westerly direction on Highway 91. At approximately Mile Post 18.6, Plaintiff Marcus Oates, Sr. encountered a large amount of water which had backed up along the GDOT right of way and over and across the roadway. The water covered both travel

lanes due to poor roadway and drainage design, construction, inspection and maintenance. The water caused the Oates vehicle to hydroplane, leave the roadway, and overturn in the water filled, GDOT right of way, resulting in Marcus Oates, Jr.'s injuries and subsequent death.

12.

Marcus Oates, Jr. was trapped in the vehicle, unable to escape and experienced horrifying death by drowning.

13.

At the aforesaid time and place, said Highway 91, the approaches thereto, and the adjoining road right of way were under the possession, control and responsibility of Defendant GDOT, its employees and agents, as a result of their statutory obligations and duties.

14.

Defendant GDOT is responsible for Highway 91's design, construction, inspection and maintenance, including the right-of way and drainage system. GDOT knew, or should have known, of the dangerous condition of this area of the roadway, as water would routinely overflow the GDOT's right of way and drainage ditches and cross the highway during rains, leaving a pool of water across the highway for significant periods of time which constituted a hazard and legal nuisance to motorists.

15.

Rather than correcting the situation, however, GDOT took no meaningful actions to remedy the known hazard to motorists. GDOT's inadequate maintenance, construction, inspection and poor design of the roadway and drainage system resulted in a hazard to motorists, who were relying on GDOT to provide safe roadways, and to properly design, inspect, construct and maintain the roadway and drainage system so as to prevent the hazard of water backing up and overflowing the travel lanes of the roadway.

16.

This water overflow onto the travel lanes posed a known risk of hydroplaning and loss of control to vehicles, and resulted in foreseeable injuries and deaths to members of the motoring public.

17.

At the aforesaid time and place, Highway 91 was in a defective, hazardous and unsafe condition.

18.

At the aforesaid time and place, Highway 91 was substantially deteriorated from its design, modifications, repairs or construction.

19.

At the aforesaid time and place, Highway 91 had substantially deteriorated so that it no longer substantially conformed to its design, construction or repaired condition.

20.

At the aforesaid time and place, Highway 91 was not maintained in substantial compliance with generally accepted design, construction or maintenance standards in effect at the time of the design, modification, repair, construction, inspection or maintenance of said roadway.

21.

At the aforesaid place, GDOT should have, prior to the April 2, 2016 wreck, conducted maintenance on the roadway and its right of way to remedy its unsafe and hazardous condition.

22.

At the aforesaid place, GDOT knew or should have known Highway 91 was unsafe, and negligently failed to take steps to maintain the roadway so it was safe for all authorized traffic on said roadway.

23.

At said time and place, GDOT negligently breached its duty to maintain the roadway in substantial compliance with applicable standards.

24.

At said time and place, GDOT negligently failed to warn motorists using Highway 91 of the dangerous, hazardous condition then existing and failed to provide proper and adequate traffic control signs and traffic warning signs in compliance with the Manual on Uniform Traffic Control Devices, and other standards, which manual and other standards GDOT was bound to follow and apply.

25.

The defective, hazardous, and unsafe condition described herein had been created and allowed to exist by Defendant GDOT and had been present for such a period of time that it was or should have been well known to GDOT, its employees and agents.

26.

Defendant GDOT was under a duty to safely control the movement of traffic at the aforesaid time and place and to ensure the timely installation and display of appropriate signage for the safety of the motoring public, including proper and adequate warning signs.

27.

At the aforesaid time and place, Highway 91 was inherently and imminently dangerous, defective, hazardous, and unsafe as to the motoring public, and as created and/or controlled by Defendant GDOT. Said conditions were or should have been well known to Defendant GDOT.

28.

GDOT violated generally accepted engineering, design and maintenance standards, as well as state and federal guidelines and standards and its own guidelines and standards, in failing to properly design, inspect, repair and maintain its roadway and right-of-way, including its drainage system.

29.

The proximate cause of Marcus Oates, Jr.'s personal injuries and subsequent death was the negligent acts and omissions of Defendant GDOT, and it was negligent in, among other things, the following several particulars:

- (a) Defendant GDOT was negligent in failing to properly place adequate and necessary signs and markings at and around the above-described location on Highway 91 to safely control the movement of traffic through said location;
- (b) Defendant GDOT was negligent in failing to adequately and properly inspect the aforescribed area of Highway 91 to ensure the safe movement of traffic on said roadway and to ensure said roadway was properly maintained;
- (c) Defendant GDOT was negligent in failing to maintain Highway 91 at or near the aforescribed location in substantial compliance with generally accepted standards;
- (d) Defendant GDOT was negligent in creating and allowing to exist defective, hazardous, and unsafe conditions in the roadway;

- (e) Defendant GDOT was negligent in its design, construction, maintenance and repair of Highway 91 at or near the aforescribed location; and,
- (f) GDOT was negligent in failing to carry out non-discretionary, ministerial duties in the design, maintenance, repair and inspection of the state roadway at issue.

30.

Plaintiff hereby gives notice, pursuant to O.C.G.A. § 9-11-43(c), of his intention to rely upon and contend that Defendant GDOT was, among other things, required to follow and enforce *The Manual on Uniform Traffic Control Devices*, and other written guidelines, standards and regulations including, but not limited, to Traffic Control Devices Handbook, Federal Highway Administration; Georgia DOT Standard Specifications, and Supplements, and AASHTO Geometric Design Policy and Roadside Design Guide.

31.

Attached hereto as Exhibit "C" is the affidavit of Herman Hill, P.E., P.T.O.E., provided pursuant to O.C.G.A. § 9-11-9.1, in the event that said statute is determined to be applicable to this case.

COUNT ONE

Wrongful Death

32.

Plaintiff incorporates herein, in Count One paragraphs 1 through 31, as set out above.

33.

At the time of his death, Marcus Oates, Jr. was 1 year of age, and had a life expectancy of 72.47 years according to the Annuity Mortality Tables for 1949, Ultimate.

34.

As set out above, Marcus Oates, Jr. sustained severe personal injuries from which he died on April 2, 2016.

35.

Plaintiff Marcus Oates, Sr. is the sole surviving, parent of Marcus Oates, Jr., and he brings this action for wrongful death pursuant to O.C.G.A § 51-4-4 and other provisions of Georgia law, to recover the full value of the life of Marcus Oates, Jr.

36.

Defendant has injured and damaged Plaintiff Marcus Oates, Sr. in an amount in excess of \$5,000,000.00.

COUNT TWO

Pain and Suffering, Medical and Funeral Expense

37.

Plaintiff Marcus Oates, Sr. as Administrator of the Estate of Marcus Leon Oates, Jr. incorporates herein in Count Two, paragraphs 1 through 36 of this Complaint.

38.

Plaintiff Marcus Oates, Sr. brings this Count as the Administrator of the Estate of Marcus Leon Oates, Jr., for pain and suffering, medical, funeral and burial expenses.

39.

As set out above, Marcus Oates, Jr. sustained severe personal injuries from which he died on April 2, 2016.

40.

Marcus Oates, Jr. experienced shock, fright and terror before his death.

41.

During the time Marcus Oates, Jr. lived following the wreck, he experienced conscious pain and physical and mental suffering, for which Defendant is liable to his Administrator.

42.

Defendant is liable to Plaintiff Marcus Oates, Sr., Administrator of the Estate of Marcus Leon Oates, Jr., Deceased for medical and funeral bills and other special damages, said amounts to be added hereto by appropriate amendment.

43.

Defendant has injured and damaged Plaintiff Marcus Oates, Sr., Administrator of the Estate of Marcus Leon Oates, Jr., Deceased in an amount more than \$1,000,000.00.

WHEREFORE, Plaintiff prays as follows:

- (a) That he have issuance and service of process and summons in terms of the law;
- (b) That he have trial by jury;
- (c) That he individually have judgment against Defendant, under **Count One**, for the full value of the life of Marcus Oates, Jr., in an amount in excess of \$5,000,000.00;
- (d) That as Administrator of the Estate of Marcus Leon Oates, Jr., Deceased he have judgment against Defendant under **Count Two**, for pain and suffering, medical, funeral and burial expenses in an Amount in excess of \$1,000,000.00;
- (e) That he recover all costs and have such other and further relief as is appropriate under the law and the evidence.

This 3rd day of November 2017.

SCHNEIDER HAMMERS LLC

BY:

/s/ Jason T. Schneider

Jason T. Schneider

Georgia Bar No.: 629549

/s/ Robert M. Hammers, Jr.

Robert M. Hammers, Jr.

Georgia Bar No.: 337211

Attorneys for Plaintiff

**THE STONE LAW GROUP - TRIAL
LAWYERS LLC**

BY:

/s/ Ryals D. Stone

Ryals Drayton Stone

Georgia Bar No.: 831761

/s/ Ronnie Joe Lane

Honorable Ronnie Joe Lane

Georgia Bar No.: 434975

Attorneys for Plaintiff

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Suite 975
Atlanta, Georgia 30342
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P.O. Drawer 70
Blakely, GA 39823
Phone: (229) 723-3045

PLEASE SERVE DEFENDANT AS FOLLOWS:

Russell R. McMurry, P.E., Commissioner,

Georgia Department of Transportation

One Georgia Center

600 West Peachtree NW

Atlanta, Georgia 30308

AND

Wade Damron, Director of the Risk Management Division

Georgia Department of Administrative Services

Suite 1208, West Tower

200 Piedmont Avenue, SE

Atlanta, Georgia 30334-9010