

**IN THE SUPERIOR COURT OF ROCKDALE COUNTY
STATE OF GEORGIA**

HOWARD COLE, as surviving spouse)
of Casey Cole, deceased and)
HOWARD COLE as administrator)
of the estate of Casey Cole)

Plaintiffs,)

vs.)

GEORGIA DEPARTMENT OF)
TRANSPORTATION, PITTMAN)
CONSTRUCTION COMPANY, and)
JESSICA FERGUSON)

Defendants.)

FILE NO. 2021-CV-1421

**PLAINTIFF’S FIRST CONTINUING INTERROGATORIES TO
DEFENDANT GEORGIA DEPARTMENT OF TRANSPORTATION**

DEFINITIONS

A. “Documents” is an all-inclusive term referring to any written, recorded, graphic or pictorial matter, however produced or reproduced. The term “documents” includes, without limitation, correspondence, interoffice communications, minutes, reports, memoranda, notes, schedules, drawings, pictures, x-rays, scans, tables, graphs, charts, books of account, ledgers, invoices, receipts, purchase orders, contracts, bills, checks, drafts, recordings; information stored in any form, including electronic, and optical; and all other such documents, tangible or retrievable, of any kind. “Documents” includes any addenda, changes, additions or deletions made to any documents, and all drafts or preliminary versions of documents.

B. “Tangible items” includes all items of any physical substance other than “documents”.

C. With respect to documents, “identify” means: (1) describe the document and its

substance, and do so sufficiently to allow for description in a subpoena or a request to produce; (2) state the date(s) of preparation, any title, and the preparer(s); (3) identify the custodian sufficiently to allow for production of the document by subpoena or a request to produce.

D. With respect to an individual, “identify” means to state: (1) his/her full name; (2) present residence address or last known residence address; (3) his/her present or last employer and address of such employer; and (4) his/her home and business telephone numbers.

E. With respect to a firm, organization, trust, partnership, corporation or other entity (except an individual), “identify” means: (1) state the name of the entity; (2) state the type of entity (whether a corporation, partnership, etc.); (3) state the address of its principal place of business and any business address in Georgia; and (4) identify its chief executive officer.

F. With respect to oral communications, “identify” means to: (1) state the identity of the person(s) participating in each such oral communication; (2) state the substance of such oral communication made by each person identified; (3) state the date and location of such oral communication.

G. “You” includes all persons acting on your behalf, including all employees, officers, agents, servants, attorneys, investigators, contractors, experts, technicians, and other persons acting on your behalf. “You” also includes all subsidiaries, parents or affiliated companies.

H. “Project Number M004973” refers to “Contract ID: B1CBA1701781-0/Project No.: M004973 - 5.710 miles of milling, inlay and plant mix resurfacing on SR 138 beginning at Sigman Rd and extending to the Newton County line.”

I. “Subject section of Highway 138” refers to Highway 138 beginning at the intersection of Highway 138 and Miller Bottom Road/Dial Mill Road and extending to the Newton County line, including mile post 17.36 in Rockdale County, Georgia.

J. “Subject wreck” refers to the motor vehicle wreck involving Casey Cole and Jessica Ferguson on April 3, 2019 that gave rise to this civil action.

K. “GDOT” refers to the Georgia Department of Transportation.

L. “Safety Edge” refers to a 30-40° angle asphalt fillet along each side of the roadway which allows a vehicle to safely reenter the roadway. It is detailed in P-7 Note, Typical within the construction plans.

INSTRUCTIONS

Pursuant to O.C.G.A. § 9-11-26, you are under a duty seasonably to amend a prior response if you obtain information upon the basis of which you know that response was incorrect when made, or you know that the response, though was correct when made, is no longer true. Additionally, you are under a duty to supplement your responses to the interrogatories with respect to the identity and location of persons having knowledge of discoverable matters and the identity of persons expected to be called as expert witnesses, as well as the subject matter on which they are expected to be called to testify as expert witnesses, and the substance of their testimony and the factual basis for their testimony, as soon as such information becomes available.

Privilege: If information is withheld based on an objection that the information is privileged or subject to protection as trial preparation material, describe the nature of the document, tangible item, communication, or information in a fashion sufficient to allow Plaintiffs to assess the objection.

Objections: If objections other than privilege are asserted, the statement of a general objection is not sufficient. You are required to specify why asserted objection applies to the requested information or materials (e.g. “the interrogatory seeks information that is not reasonably calculated to lead to the discovery of admissible evidence because . . .”). See Munn v. Munn, 116

Ga. App. 297, 299 (1967).

Information to be Provided: In answering these interrogatories, you must furnish information that is available to “you”. Provide information whether it is in your possession or not, and whether you can vouch for its accuracy, and whether or not it constitutes hearsay. With regard to information you provide that you do not know is accurate, indicate that fact as part of your response to the interrogatory.

INTERROGATORIES

1.

Identify all persons who supplied information or otherwise participated in the answering of these interrogatories, indicating, as to each, his or her relationship with the defendant.

2.

Please state the type of pavement edge treatment the plans for Project Number M004973 required along the subject section of Highway 138.

3.

State who was responsible for constructing the pavement edge treatment for the subject section of Highway 138.

4.

Identify the type of pavement edge treatment Defendant Pittman built on the subject section of Highway 138.

5.

Please explain why there was not a safety edge along the northbound lane of the subject section of Highway 138 on April 3, 2019.

6.

State whether a comprehensive study by an engineer and the prior approval of a Design Variance from the GDOT Chief Engineer was obtained to omit the construction of a safety edge on the subject section of Highway 138.

7.

State whether there were any traffic control devices or signage present at the subject section of Hwy 138 on April 3, 2019. If your answer is affirmative, please describe the traffic control device or signage.

8.

Please state the full name, address, telephone number, and place of employment of every person, whom you believe to have relevant knowledge whatsoever, whether as a witness or otherwise, concerning the following:

- (a) the subject wreck on April 3, 2019;
- (b) any investigation of the subject wreck, including but not limited to any investigation or analysis of the wreck, including but not limited to any causes or reasons for said wreck;
- (c) the condition of the roadway, right of way, signage, traffic control, shoulders, edge of pavement conditions or any other portions of the roadway on the subject section of Highway 138 from November 17, 2017 to October 3, 2019.
- (d) the traffic control devices and signage, traffic control plan, traffic control safety, traffic control, traffic movement or any other aspect of traffic or traffic safety of the roadway on the subject section of Highway 138 on April 3, 2019;
- (e) complaints or comments regarding traffic control, traffic control devices, traffic control plan, traffic safety, traffic movement, roadway condition, or edge of pavement condition

of the roadway on the subject section of Highway 138 from November 17, 2017 to October 3, 2019;

- (f) the pavement edge treatment, edge of pavement drop-off, or safety edge on the subject section of Highway 138;
- (g) the construction manager employed by Defendant GDOT for Project Number M004973;
- (h) the final inspection for Project Number M004973; and
- (i) any inspections of the subject section of Highway 138 between November 28, 2018 and April 3, 2019.

9.

Identify any construction, rehabilitation and/or repair contracts you have awarded for work to be performed on the subject section of Highway 138 in Rockdale County, Georgia for the past five years.

10.

State whether Defendant GDOT performed any repair, including but not limited to, placing asphalt or cement, filling the rut with gravel or crushed stone, or reconstruction of the shoulder/edge of pavement of the northbound lane of the subject section of Highway 138 from November 17, 2017 to present day. Identify each person involved and all relevant documents.

11.

Please state the name, address, title, and job responsibilities of any employee or agent of Defendant GDOT who was involved in any way whatsoever with the maintenance, inspection, repair, traffic control and planning and design of the work on the subject section of Highway 138, including its shoulders, and edge of pavement, from November 17, 2017 to October 3, 2019.

12.

Identify all inspections or surveys performed of the subject section of Highway 138 from April 3, 2018 to April 3, 2020, including the purpose of the inspections and all persons involved.

13.

Identify any reports, complaints, or correspondence you have received regarding edge of pavement drop-off height, edge of pavement deterioration, or roadside rutting or erosion on the subject section of Highway 138 from April 3, 2015 to April 3, 2020.

14.

Identify and describe Defendant GDOT's policies and procedures for pavement edge treatments when building / repaving roads.

15.

Identify and describe all Defendant GDOT policies, procedures and documents on inspecting, maintaining and repairing pavement edge treatments, edge of pavement drop-offs, safety edge, and roadside rutting or erosion.

16.

When did Defendant GDOT first receive notice of the subject wreck? Identify all such communications including who notified Defendant GDOT, which employees of Defendant GDOT were notified, the manner of notification and the and the substance of the communications.

17.

Identify each of your employees and/or agents who was involved with or performed work on Project Number M004973, including the final inspection and acceptance process, at the subject section of Highway 138. Include in your identification the job title of each employee and/or agent and the dates of each employee's and/or agent's employment and/or agency.

18.

Identify each of your employees and/or agents who was involved with the final inspection performed by Defendant GDOT on Project Number M004973.

19.

When the subject section of Highway 138 was inspected and accepted by Defendant GDOT did it have a safety edge or an edge of pavement drop-off? If it had an edge of pavement drop-off, please state approximately how many inches it was.

20.

Identify any seminar, webinars, classes, and/or internal training which GDOT employees and/or its agents received regarding maintenance, inspection, replacement, implementation and construction of edge of pavement drop-offs, edge of pavement treatments and safety edges over the previous ten years.

21.

Identify all crashes involving roadway shoulders, pavement edge treatments, and edge of pavement drop-offs on Georgia state and interstate highways for 2009 through 2019.

22.

Identify each person you expect to call as an expert witness at trial, stating as to each the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion. If a curriculum vitae or resume of the expert is unavailable, please also provide his or her office address, professional specialty and a summary of the background, credentials and experience relevant to his or her expertise on the subject matter of this lawsuit.

23.

If you have ever been a party to a lawsuit involving edge of pavement drop-offs in the past ten years, other than the present one, state for each such lawsuit:

- a. The name and type of the suit;
- b. The court in which it was filed; and
- c. The date it was filed.

24.

Explain all factual and evidentiary bases supporting or tending to support each affirmative defense pled in your answer to the Complaint.

25.

Please identify and describe all documents or tangible things now within your possession custody or control relating to any fact referred to in your response and/or response to Interrogatory Number 24.

26.

Do you contend that you are not a proper party to this lawsuit? If so, explain why.

27.

If you contend that any non-party persons or entities in anyway caused or contributed to the subject wreck, identify each non-party person or entity and explain how each such person or entity caused or contributed to the subject wreck.

28.

Have you obtained, or have knowledge or, any statements, written, oral, or in any form, made by any persons with knowledge of any facts at issue? If so, please identify the person making each statement; the form of the statement, e.g., wherein written, recorded, oral, or under oath;

identify each person present when each statement was taken or made and identify each and every person who has ever had the original or a copy thereof, including the person or persons with present custody thereof.

29.

Are you (whether individually, collectively with other Defendants in this civil action, or both) covered by any applicable policy of liability insurance, self-insurance plans, voluntary reserves of any type which serves the possible function of liability insurance which would apply to the subject wreck? If your answer is in the affirmative, please state the name and address of your insurer(s), the limits of the policy, and wherein or not such policy was in force and effect at the time of the occurrence in question or provide a copy of such policies. Please note this Interrogatory inquires about primary, excess coverage, umbrella coverage, and any other policy naming you as co-insured or also insured.

This 29th day of March, 2021.

/s/ Michael Ruppensburg
James B. Matthews, III
Georgia Bar No. 477559
Michael Ruppensburg
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