

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 REQUEST FOR PRODUCTION OF  
DOCUMENTS 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 materials are withheld based on an objection that the materials are 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 request seeks materials that are not reasonably calculated to lead to the discovery of admissible evidence because . . .”). See Munn v. Munn, 116

Ga. App. 297, 299 (1967).

**REQUESTS FOR PRODUCTION**

1.

Any and all documents which identify the party responsible for inspecting, constructing repairing and maintaining the subject section of Highway 138.

2.

Any and all reports obtained from any expert you expect to call at trial.

3.

Any and all recorded or written statements by any person, including any Plaintiff, Defendant, or any other person in connection with or in any way relating to the subject matter of the present civil action.

4.

Any and all reports, complaints, or correspondence regarding traffic control, traffic control devices, traffic control plan, traffic safety, traffic movement, roadway condition, or edge of pavement condition the roadway on the subject section of Highway 138 from April 3, 2016 to October 3, 2019.

5.

Any and all policies and procedures identified in your Responses to Plaintiff's First Continuing Interrogatories to Defendant Georgia Department of Transportation.

6.

Any and all documents or data, including but not limited to contracts, correspondence, memorandum, or agreements between Defendant GDOT and Defendant Pittman and all sub-contractors, and any other individual or entity concerning, evidencing or referencing any work,

maintenance, inspection, construction, paving, analysis or examination of the subject section of Highway 138 in Rockdale County, Georgia during the past three years;

7.

Produce the complete project record for Project Number M004973, including but not limited to, all records, data, contract diaries, and media records associated with Project Number M004973 in ProjectWise and SiteManager.

8.

All photograph and video files uploaded into ProjectWise in Project Number M004973's Photo/Video Documentation folder.

9.

Any and all documents, or data created by the Construction Manager for Project Number M004973 including but not limited to, all correspondence between the Construction Manager and Pittman and correspondence between the Construction Manager and GDOT.

10.

All "reference documents and publications" that were available to Project Number M004973 personnel pursuant to Chapter Four, page 6, of the GDOT Construction Manual.

11.

All documents, data, photographs, or video that identify or depict equipment used on Project M004973, including but not limited to asphalt pavers and paver attachments.

12.

Any and all documents showing whether the pavement edge in the northbound lane of the subject section of Highway 138 was constructed with a safety edge.

13.

Any and all memoranda, notes, correspondence, or other document that in any way concerns Defendant Pittman's work and maintenance on the subject section of Highway 138, including, but not limited to, discussions or correspondence with any Defendant GDOT official, agent or employee.

14.

Any and all memoranda, notes, correspondence, or other document that in any way concerns edge of pavement work and maintenance on Project ID: M004973, including, but not limited to, discussions or correspondence with any Defendant Pittman or GDOT official, agent or employee.

15.

Any and all memoranda, notes, correspondence, or other document that in any way concerns edge of pavement failure on Project ID: M004973, including, but not limited to, discussions or correspondence with any Defendant Pittman or GDOT official, agent or employee.

16.

Any and all memoranda, notes, correspondence, or other document that in any way concerns the subject wreck, including, but not limited to, discussions or correspondence with any Defendant Pittman or GDOT official, agent or employee.

17.

All documents showing 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 in Rockdale County from April 3, 2016 to October 3, 2019.

18.

Any and all memoranda, notes, correspondence, or other document that in any way concerns the acceptance process of Project ID: M004973.

19.

Produce all Daily Work Reports for Highway 138, beginning at Sigman Rd and extending to the Newton County line, including mile post 17, in Rockdale County, Georgia for the past three years.

20.

Any and all deficiencies, ratings, memoranda, notes, correspondence, or other document related to or derived from GDOT PASER windshield inspections of the northbound lane of Hwy 138 at or near mile marker 17 in Rockdale County for three years before the subject wreck and six months after.

21.

All GDOT yearly pavement condition PACES and COPACES inspection data of for Highway 138, beginning at Sigman Rd and extending to the Newton County line, including mile post 17, in Rockdale County, Georgia including, but not limited to all deficiencies, ratings, summaries, prepared reports, and presentations for three years before the subject wreck and six months after.

22.

Any and all deficiencies, ratings, memoranda, notes, correspondence, or other document related to or derived from CoPaces inspections performed by the District Maintenance Office and State Maintenance Liaisons on the subject section of Highway 138 for three years before the subject wreck and six months after.

23.

Any and all deficiencies, ratings, memoranda, notes, correspondence, or other document related to or derived from Concrete Pavement Surveys on the subject section of Highway 138 for three years before the subject wreck and six months after.

24.

Produce all data on for Highway 138, beginning at Sigman Rd and extending to the Newton County line, including mile post 17, in Rockdale County, Georgia for the past five years contained in any GDOT data system, program or module, including but not limited to, Geographic Information Systems Module (GIS), COPACES Data Quality Insurance program (CoPaDQI), and Georgia Pavement Management system (GPAM) for three years prior to the subject wreck and six months after.

25.

Any internal memos or correspondence related to pavement edge treatment, edge of pavement drop-offs and or the safety edge on the subject section of Highway 138 in Rockdale County for three years before the subject wreck and six months after.

26.

Any and all reports, research articles or surveys prepared by or for Defendant GDOT during the previous ten years related to the safety edge and repairing, maintaining, and/or inspecting roadways with edge of pavement drop-offs.



## COMMUNICATIONS

27.

Produce all communications, both internal communications within GDOT and communications between GDOT and other Defendants, that in any way evidence, relate, or concern a safety edge or edge of pavement drop-off on the subject section of Highway 138 from November 17, 2017 to present day.

28.

Produce all communications, both internal communications within GDOT and communications between GDOT and other Defendants, that in any way evidence, relate, or concern the subject wreck.

29.

Produce all communications, both internal communications within GDOT and communications between GDOT and other Defendants, that in any way evidence, relate, or concern the inspection and/or acceptance process of Project ID: M004973.

30.

Produce all communications, both internal communications within GDOT and communications between GDOT and other Defendants, that in any way evidence, relate, or concern any and all repair or remedial measures, including but not limited to the placement of gravel in the roadside ruts, on the subject section of Highway 138 from November 17, 2017 to present day.

## **GDOT'S POLICIES, PROCEDURES, & GUIDELINES**

31.

Produce Defendant GDOT's policies and procedures for edge of pavement treatment when building and repaving roads.

32.

Produce Defendant GDOT's policies and procedures that in any way relate to edge of pavement drop-offs.

33.

Produce GDOT's policies for inspecting roadways for edge of pavement drop-offs.

34.

Produce Defendant GDOT's policies for maintaining roads to prevent edge of pavement drop-offs and repairing edge of pavement drop-offs.

35.

Produce Defendant GDOT's policies and procedures regarding Defendant GDOT's oversight of construction on Project Number M004973.

36.

Produce all policies and procedures regarding the use of traffic control devices and signage when an edge of pavement drop-off and/or roadside rut is present along a roadway.

37.

A complete certified copy of each policy of insurance, including any umbrella policy and any other policy of insurance providing excess liability coverage, which, to your knowledge, information or belief, may provide coverage to you for any claim asserted against you in this civil action. (**NOTE**: this request seeks a complete certified copy of each such policy; a declarations

page or other policy summary will not suffice as a response).

38.

Produce any documents showing crashes involving roadway shoulders, pavement edge treatments, and edge of pavement drop-offs on Georgia state and interstate highways for 2009 through 2019.

This 29<sup>th</sup> day of March, 2021.

*/s/ Michael Ruppensburg*  
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