

# DAILY REPORT

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## GDOT Pays \$2.5M to Settle Triple-Fatality Flooded Highway Suits

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THE GEORGIA DEPARTMENT of Transportation paid \$2.5 million to settle claims arising from the deaths of a mother and her two children who drowned when their SUV hydroplaned and overturned into a flooded ditch in rural southwest Georgia.

The driver, who was the father of one of the children and was engaged to their mother, struggled to free them but was unable to save their lives, according to the lawyers handling the case.

In addition to the settlement, GDOT has agreed to re-engineer the 1930s-era highway to avoid similar events on the flood-prone stretch of road, the lawyers said.

Attorneys from four firms represented the family in litigation,



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Jason Schneider (back row, from left), Clark McGehee and Rob Hammer with (seated, from left) Chris Clark and William Lanham were among the plaintiffs lawyers from four firms.

which was filed in Miller County: Schneider Hammers partners Rob Hammers and Jason Schneider represented driver Marcus Oates Sr., who also sued on behalf of his 1-year-old son, Marcus Oates Jr.

Clark McGehee and Bill Lanham of Johnson & Ward

represented the parents and estate of the mother, 30-year-old Tina Butler; and Chris Clark of Macon's Clark & Smith represented the estate of Butler's 7-year-old daughter, Zhia Franklin.

Ryals Stone and Ronnie Joe Lane of Blakely's Stone Law

Group served as local counsel for all of the plaintiffs.

According to the lawyers and court filings, the couple had been out looking at houses and were traveling on Ga. 91 between Colquitt and Newton in Miller County in April 2016 when they came upon a large pool of standing water on the highway after it had been raining.

“The children were strapped in their car seats in the back, and the parents were up front,” McGehee said.

Marcus Oates, 38, was not familiar with the stretch of highway and attempted to pass a car in front of them “and just hit this huge amount of water and hydroplaned,” he said.

Oates’ 2003 Lincoln Navigator hydroplaned and spun off the road into a water-filled ditch. Oates managed to struggle free but was unable to rescue his passengers.

“Marcus and some bystanders were trying to get them out, but they were trapped, hanging upside-down in this tremendous amount of muddy water,” McGehee said.

Clark, who stands 6-feet, 3 inches tall, said the ditch was so deep that, when he stood in it, his head was still below the road’s surface.

“It had rained substantially for several days prior to the event; it

would have taken a lot of water to cover the roadway,” Clark said.

During discovery, the lawyers found GDOT documents indicating that the roadway had flooded at least five times during the previous 10 years.

“Once we figured out it had happened before, we tried to figure out why,” Clark said.

The lawyers found the original 1930s plan for the highway, Clark said.

“There were supposed to be drains underneath and on both sides,” he said. “Of the three drains that should have been shunting water, two were gone. Just filled up.”

The plaintiffs originally filed separate wrongful death complaints in 2017, but all were combined into one case in Miller County Superior Court.

GDOT initially denied liability and argued that unusually heavy rains in the days before the accident caused the flooding and that Oates was driving too fast for conditions.

Under the Georgia Tort Claims Act, the state is not liable for damages above \$3 million for any single incident, and the lawyers demanded the full amount to settle.

“This went on for almost two years, and we had an informal mediation with the attorney

general’s office and the DOT and basically said, ‘this is our evidence,’” said Clark. “It took two or three months; then they came back with what we thought was a very reasonable offer.”

Had the case gone to trial, they said, the verdict would have likely have been much higher.

The settlement was reached last month and has been fully paid, Hammers said.

“We really think one important aspect is that they’re going to fix that road,” said Hammers. “Mr. Oates was very grateful to the state for making sure this doesn’t happen to anybody else.”

Neither the office of Georgia Attorney General Chris Carr nor a GDOT spokesperson responded to requests for comment. 

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