

DAILY REPORT

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GDOT Settles Four Stolen Sewer Grate Injury Claims for \$2M

GREG LAND | gland@alm.com

THE GEORGIA DEPARTMENT of Transportation has agreed to pay more than \$2 million to settle four lawsuits involving men who fell into open storm sewers along Georgia highways after thieves stole the covers to sell for scrap metal.

One man died and the other three were seriously injured, including one who plummeted more than 11 feet after stepping into what his filings described as an open “mantrap.” The plaintiffs are represented by a group of five attorneys: Dustin Davies of Hasty Pope, Rob Hammers Jr. of Schneider Hammers, Adam King of Augusta’s Nicholson Revell and Lance Lourie and Robin Lourie of Watkins Lourie Roll & Chance.

A universal settlement demand submitted to GDOT and two private contractors in June cited news articles from 2013 and 2015 in which GDOT reported at least 600 grates were missing.

Davies and Hammers said evidence uncovered during discovery indicated GDOT was aware of the safety hazards posed by the missing grates, and had explored various means to deter thieves, including painting the grates red so scrap metal dealers would know they were stolen.

“Dustin acquired a bunch of invoices showing that [GDOT] actually ordered a bunch of grates, then put them in a warehouse and never used them,” Hammers said.

Davies said one of the grates repeatedly stolen cost \$126 to replace. An anti-theft chain GDOT considered retrofitting on the grates was about \$42.

The lawyers credited the office of Attorney General Chris Carr and Law Department attorneys Andrew Brown, Ron Boyter Jr. and Kathleen Turnipseed with helping drive the settlement to fruition.

“To their credit, they were excited about the idea of doing a global mediation and knocking out four



ROB HAMMERS

big claims in one fell swoop,” Davies said.

A spokeswoman for Carr’s office did not respond to a query by press time.

Two maintenance contractors who were named in Hammers’ case agreed to pay \$35,000 toward his client’s settlement. They were represented by Crim & Bassler partner Harry Bassler and Hawkins Parnell Thackston & Young partner Peter York, who did not respond to a request for comment.

Three of the settlements involved complaints filed in Fulton County State Court, and the fourth was filed in Richmond County State Court.

According to the lawyers and court filings, the first case happened in August 2013, when Delta baggage handler Jonah McKenzie slid off I-285 at about 5:30 a.m. McKenzie was checking his vehicle on the poorly lit shoulder when he “fell straight into the 11 feet, 2 inch mantrap created by the open storm drain.”

McKenzie shattered his right fibula and tibia, requiring two surgeries and more than two months of rehabilitation. He incurred nearly \$180,000 in medical bills and more than \$4,000 in lost wages.

Hammers represents McKenzie, whose portion of the settlement is \$535,000.

In October 2014, Raymond and Ann Sisson were hauling a camper trailer along I-75 at about 6:30 a.m. when another driver signaled, they struck their truck. They pulled to the shoulder and Raymond Sisson got out to check the trailer, falling into an uncovered drain obscured by foliage.

Sisson struck his head but didn't realize how badly injured he was. The couple continued on toward Waycross when Sisson, 79, became nauseous and incoherent at a gas station. His wife drove to Bacon County Hospital, where Sisson was diagnosed with acute brain bleed due to a subdural hematoma. He was life-flighted to a Jacksonville

trauma center where physicians said he was brain dead and would not recover. He died the next day.

Sisson accrued medical bills of more than \$117,000. Lance and Robin Lourie represent Ann Sisson, whose portion of the settlement totaled \$750,000.



To [the office of Attorney General Chris Carr and Law Department attorneys Andrew Brown, Ron Boyter Jr. and Kathleen Turnipseed's] credit, they were excited about the idea of doing a global mediation and knocking out four big claims in one fell swoop.”

—Dustin Davies of Hasty Pope

In September 2014, Larry Cook pulled off Buford-Spring Connector in Atlanta to tend to a child who was nauseous and, as he walked around the car to the rear door, fell 15 feet into an open storm drain.

Cook's left ankle and foot were shattered, requiring the implantation of a metal plate. He continues to have difficulty walking, standing and ascending steps. Cook accrued nearly \$127,000 in medical bills.

Davies represents Cook, whose portion of the settlement totaled

\$550,000, including \$60,000 from the city of Atlanta.

In January 2015, Mickey Koelling was on the exit ramp between I-75 North and I-285 East in College Park, following another vehicle that was in his care. That vehicle broke down and stopped along the ramp, and Koelling stopped and began to place reflective safety triangles on the dark roadway when he fell into an open drain. Koelling suffered a fractured ankle requiring fusion surgery.

King represents Koelling, whose medical bills and lost income totaled \$88,000. His portion of the settlement totaled \$260,000.

The total of all the settlements is \$2,095,000.

Davies and Hammers said the settlement was agreed upon on Sept. 13 during a mediation with Thomas Tobin of Henning Mediation & Arbitration Services.

Davies noted all of the plaintiffs attorneys are active in the Georgia Trial Lawyer Association and said those relationships helped them come together to work for the global settlement.

“We might have had to go to trial on these cases if it wasn't for the collegiality and spirit of cooperation that people of the GTLA have for one another,” he said. 