

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

[REDACTED] A [REDACTED], as administrator of
the estate of [REDACTED] and as
guardian of J.H. and T.H.,

Plaintiff,

v.

MARTIN-ROBBINS FENCE COMPANY,
GEORGIA DEPARTMENT OF
TRANSPORTATION, ARCADIS U.S.,
INC. and JOHN DOES 1-10,

Defendants.

Civil Action File No.: [REDACTED]

[REDACTED] and [REDACTED]

Plaintiffs,

v.

GEORGIA DEPARTMENT OF
TRANSPORTATION, MARTIN-
ROBBINS FENCE COMPANY, and
ARCADIS U.S., INC.

Defendants.

Civil Action File No.: [REDACTED]

**ORDER DENYING DEFENDANT MARTIN ROBBINS FENCE COMPANY'S
AND ARCADIS U.S., INC.'S, MOTION FOR SUMMARY JUDGMENT**

This case comes before the Court on Defendant Martin Robbins Fence Company's ("Martin Robbins") and Defendant Arcadis U.S., Inc.'s ("Arcadis") Motions for Summary Judgment. After due consideration, and with the benefit of oral argument, the Court DENIES both Defendants' Motions. Specifically, with respect to Martin Robbins, this Court finds that genuine

issues of material fact exist with respect to the following: (1) whether Martin Robbins owed a duty under the voluntary undertaking doctrine and negligently performed said duty; (2) whether Martin Robbins owed a duty under common law to meet industry standards for repairing guardrails and breached said duty; (3) whether Martin Robbins owed a duty to Plaintiffs as third-party beneficiaries to its guardrail contract with GDOT and breached said duty; and (4) whether Martin Robbins owed a duty to avoid creating or maintaining a continuing nuisance and breached said duty.

With respect to Arcadis, this Court finds that genuine issues of material fact exist with respect to the following: (1) whether Arcadis owed a duty under the voluntary undertaking doctrine and negligently performed said duty; (2) whether Arcadis owed a duty under common law to meet the industry standard for identifying and reporting nonfunctional guardrails and breached said duty; (3) whether Arcadis owed a duty to Plaintiffs as third-party beneficiaries to its guardrail contract with GDOT and breached said duty; and (4) whether Arcadis owed a duty to avoid creating or maintaining a continuing and breached said duty.

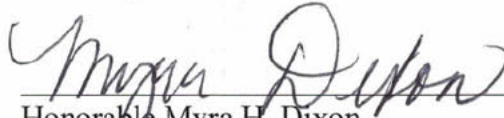
Additionally, this Court finds that a jury could reasonably conclude that Defendant Martin Robbins and/or Defendant Arcadis showed willful and wanton indifference to safety and impose punitive damages against one or both Defendants. Accordingly, this Court hereby denies Defendant Martin Robbins' and Defendant Arcadis' Motions for Summary Judgment with respect to punitive damages.

Finally, this Court finds that the determination of whether attorneys' fees should be awarded under O.C.G.A. § 13-6-11 is a question for a jury¹ and hereby denies Defendant Martin Robbins' and Defendant Arcadis' Motions for Summary Judgment with respect to attorneys' fees.

¹ See *Spring Lake Property Owner's Ass'n v. Peacock*, 260 Ga 80, 81 (1990).

Accordingly, based on the record as a whole, Defendant Martin Robbins' and Defendant Arcadis' Motions for Summary Judgment are DENIED.

SO ORDERED, this 15th day of September 2022.



Honorable Myra H. Dixon
Judge, State Court of Fulton County