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Donald Talley, Clerk
Civil Division

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

[REDACTED] as administrator of
the estate of [REDACTED] and as
guardian of [REDACTED] and [REDACTED],

Plaintiffs,

v.

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

Defendants.

Civil Action No.: [REDACTED]

PLAINTIFFS' REQUEST FOR JUDICIAL NOTICE
OF GOOGLE STREET VIEW IMAGES

Plaintiffs respectfully request that the Court take judicial notice of the Google Street View images that have been used throughout this case. O.C.G.A. § 24-2-201(b), (c).

1. Google Street View images show the subject guardrail over time.

This case arises from a collision into a damaged guardrail that had been nonfunctional for at least ten months. Plaintiffs have shown Google Street View images of the subject guardrail to nearly every witness in this case *without objection* from any Defendant.¹ Many witnesses familiar with the subject guardrail testified about the Google Street View images of the subject guardrail.² The Google Street View images at issue can be seen below.

¹ Martin Dep., 28:8-29:21, 33:20-34:6 (Ex. A); Wilkerson Dep., 26:18-27:21 (Ex. B); Flanders 30(b)(6) Dep., 41:16-42:7 (Ex. C); Moore 30(b)(6) Dep., 26:5-23 (Ex. D); Hendon 30(b)(6) Dep., 60:18-62:15 (Ex. E); Anderson 30(b)(6) Dep., 23:2-25:13 (Ex. F); Thrasher Dep., 34:15-40:5 (Ex. G); Wilkerson 30(b)(6) Dep., 196:20-199:5 (Ex. H); Kent Dep., 24:6-26:2 (Ex. I).

² *Id.*

Subject Guardrail
January 2018
Google Street View

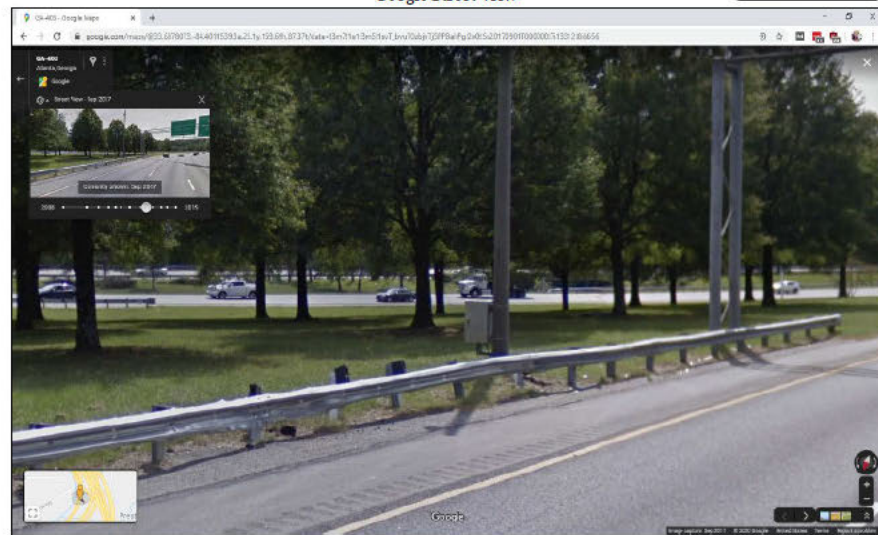
PLAINTIFF'S
EXHIBIT
2



<https://www.google.com/maps/@33.6877189,-84.4011289,3a,75y,146.23h,82.02t/data=!3m7!1e1!3m5!1sWdOm7w-le9VpteG3O3ggI2e0!5s20180101T000000!7!13312186656>

Subject Guardrail
September 2017
Google Street View

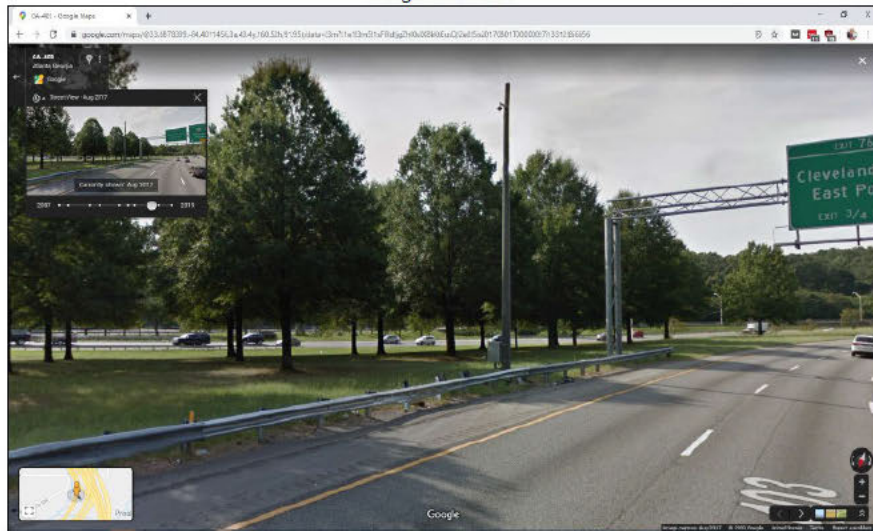
PLAINTIFF'S
EXHIBIT
3



<https://www.google.com/maps/@33.6876073,-84.4011539,3a,75y,153.69h,87.37t/data=!3m7!1e1!3m5!1sV1-bru70zbhTISPF6aHFG!2e0!5s20170901T000000!7!13312186656>

Subject Guardrail
August 2017
Google Street View

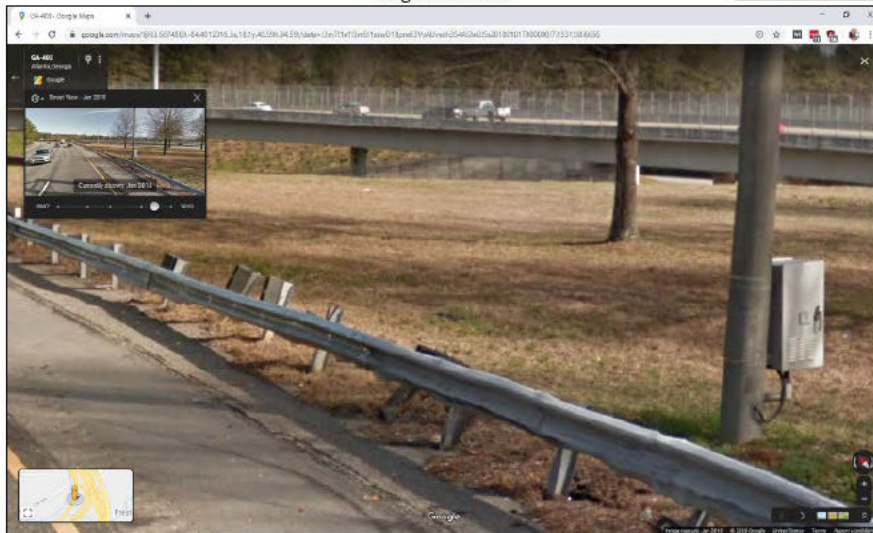
PLAINTIFF'S
EXHIBIT
4



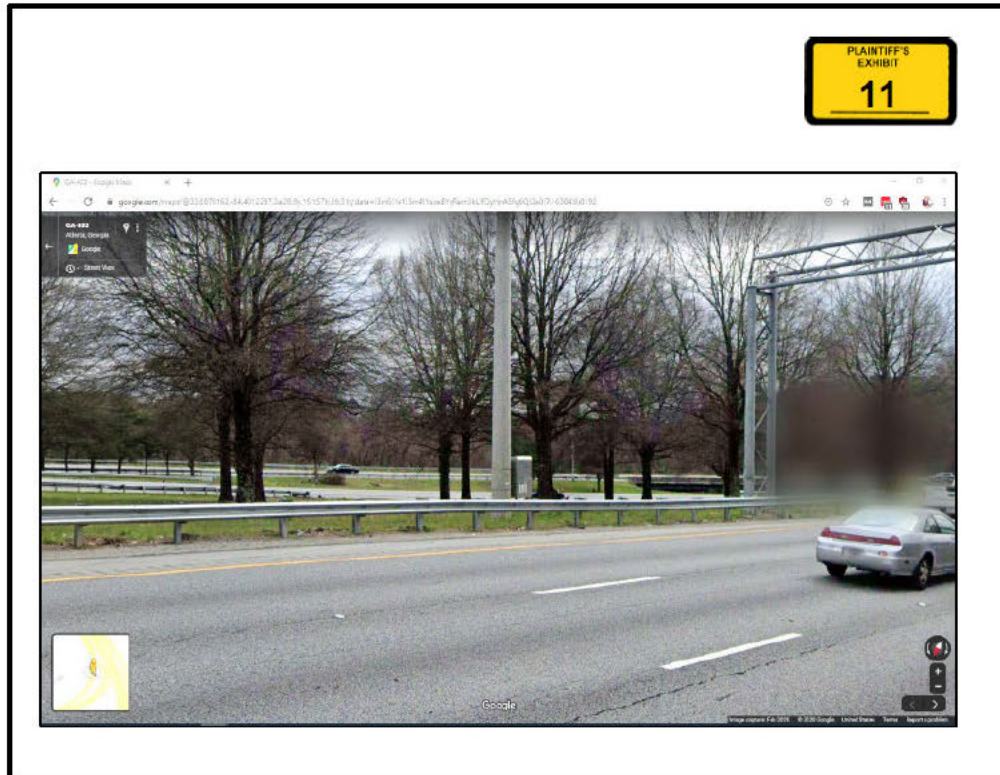
<https://www.google.com/maps/@33.6878389,-84.4014563,43.4y,160.52h,91.95t/data=!3m7!1e1!3m5!1sFRldjg2h10uKDKtEusQ!2e0!5s20170801T000000!7!13312!8!6656>

Subject Guardrail – Zoomed In
January 2018
Google Street View

PLAINTIFF'S
EXHIBIT
5



<https://www.google.com/maps/@33.6874863,-84.4012016,3a,18.1y,40.59h,84.59t/data=!3m7!1e1!3m5!1sawD18preB3VvAUvexh354A!2e0!5s20180101T000000!7!13312!8!6656>



No party has claimed that the Google Street View images of the subject guardrail are inaccurate. No party could make such a claim in good faith.

2. The Court should take judicial notice of the Google Street View images.

Plaintiffs respectfully request that the Court take judicial notice of the Google Street View images. Under the Georgia Evidence Code, “[a] judicially noticed fact shall be a fact which is not subject to reasonable dispute in that it is either: (1) [g]enerally known within the territorial jurisdiction of the court; or (2) [c]apable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” O.C.G.A. § 24-2-201(b)(1)-(2). A court may take judicial notice, whether or not requested by a party, at any stage of a proceeding. O.C.G.A. § 24-2-201(c).

In determining whether to judicially notice a fact, the trial court typically focuses on reliability by considering: “(i) knowledge of the subject matter, (ii) independence from relevant bias, and (iii) incentive to ensure accuracy.” Jeffrey Bellin and Andrew Guthrie Ferguson, *Trial by Google: Judicial Notice in the Information Age*, NW. U. L. REV., Vol. 108, No. 4 pp. 1137-1182 (2014) (citations omitted) (Ex. J). Legal scholars have noted that Google Maps is “so well known and enjoys such broad use that it may have achieved a status akin to Webster’s Dictionary, permitting judicial notice of the accuracy of the site itself.” *Id.*

Judicial notice of Google Street View images has become a routine pre-trial matter. *See, e.g., Davis v. City of Rochester*, 2022 WL 6885334, at *8 n.5 (W.D.N.Y. Oct. 12, 2022) (taking judicial notice of Google Street View images to ascertain the layout of a house); *Hernandez v. Caliber Bodyworks LLC*, 2022 WL 1002450, at *4 (N.D. Cal. Apr. 4, 2022) (taking judicial notice of four “Google Street View images from January 2018, September 2018, April 2019, and November 2020.”); *United States v. Nettles*, 2021 WL 3131658, at *5 n.9 (E.D. Mo. June 7, 2021) (taking judicial notice of Google Street View images to identify the location of a stop sign); *Johnson v. Torres Enterprises LP*, 2019 WL 285198, at *3 (N.D. Cal. Jan. 22, 2019) (taking judicial notice of Google Street View photograph showing property with no building); *Magee v. Glacier Water Servs., Inc.*, 2017 WL 396287, at *3 n.29 (E.D. La. Jan. 30, 2017) (taking judicial notice of Google Street View photograph of a refill station).

Courts in the Eleventh Circuit follow this logic: “Probably the most common online source of judicially noticed facts is Google Maps.” *Todd v. Carstarphen*, 236 F. Supp. 3d 1311, 1320 n.14 (N.D. Ga. 2017); *see also Permenter v. Fedex Freight, Inc.*, 2016 WL 878496, at *2 (M.D. Ga. Mar. 7, 2016); *Rangel v. Anderson*, 2016 WL 6595600, at *5 (S.D. Ga. Nov. 7, 2016) (denying defendant’s motion in limine seeking to exclude Google Maps print-out of accident

scene); *Cobb Theatres III, LLC v. AMC Entm't Holdings, Inc.*, 101 F. Supp. 3d 1319, 1329 (N.D. Ga. 2015) (acknowledging that other courts routinely take judicial notice of Google Maps satellite images and taking judicial notice of Google Maps print-out for distance between two theaters); *Carcamo v. United States*, 2013 WL 4412307, at *4 (M.D. Fla. Aug. 15, 2013) (citing a link to Google Maps in opinion).

A fast-growing number of appellate and district courts are taking judicial notice of information found on Google Maps. *See, e.g., Pahls v. Thomas*, 718 F.3d 1210, 1216 (10th Cir. 2013) (judicially noticing satellite image from Google Maps to determine distance between two points)³; *Cloe v. City of Indianapolis*, 712 F.3d 1171, 1177 n. 3 (7th Cir. 2013) (judicially noticing Google Maps images to visualize a relevant area); *United States v. Perea-Ray*, 680 F.3d 1179, 1182 n.1 (9th Cir. 2012) (judicially noticing Google Maps satellite image to visualize location of home); *Daniels v. 1710 Realty LLC*, 2011 WL 3648245, at *1 (E.D.N.Y. Aug. 17, 2011), *aff'd*, 497 F. App'x 137 (2d Cir. 2012) (court used an image from Google Maps Street View to determine that at relevant time, commercial units occupied the ground floor and residential units occupied the other three floors of building). Indeed, every Circuit Court of Appeals that has addressed this issued has also “take[n] judicial notice of a Google map and satellite image as a ‘source[] whose accuracy cannot reasonably be questioned.’” *Pahls*, 718 F.3d at 1216 (quoting *Perea-Ray*, 680 F.2d at 1182 n.1).⁴ Even the United States Supreme Court

³ In *Pahls*, interestingly, neither party even presented the Google Maps, but rather, the Court accessed the images itself and took judicial notice because Google Maps’ “accuracy cannot reasonably be questioned. . .” *Id.*

⁴ In line with these decisions, this Court already considered and relied upon the Google Maps images in ruling on Defendants’ motions for summary judgment.

relied upon Google Maps to calculate distance. *See Stormans, Inc. v. Wiesman*, 136 S. Ct. 2433, 2433 (U.S. 2016).

Because the reliability of the Google Street View images cannot credibly be questioned, this Court, in line with every other jurisdiction known to the undersigned to have considered the issue, can (and should) take judicial notice.

3. Conclusion

Plaintiffs respectfully request that the Court take judicial notice of the Google Maps Street View images since the reliability of the images cannot be questioned. A proposed order is attached for the Court's convenience.

Respectfully submitted this 14th day of August 2023.

BUTLER | KAHN

BY: /s/ Matthew R. Kahn

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the undersigned has this day electronically filed the within and foregoing ***PLAINTIFFS' REQUEST FOR JUDICIAL NOTICE OF GOOGLE MAPS STREET VIEW IMAGES*** with the Clerk of Court using the Odyssey e-filing system which will send e-mail notification of such filing to the following counsel of record:

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This 14th day of August 2023.

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