

STATE OF MICHIGAN
IN THE SUPREME COURT

MARK GOSS

Plaintiff-Appellee

v

MICHIGAN DEPARTMENT OF
NATURAL RESOURCES

Defendant-Appellant

Supreme Court No. 161952

Court of Appeals No. 349411

Court of Claims No. 19-000022-MZ

APPELLANT'S APPENDIX VOLUME I

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Dated: October 25, 2021

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STATE OF MICHIGAN
IN THE COURT OF CLAIMS

MARK GOSS,

Plaintiffs,

vs.

Case No. 19-000022-MZ

HON. Murray

MICHIGAN DEPARTMENT
OF NATURAL RESOURCES,

Defendant.

JOSEPH SUKUP (P39898)
VEN R. JOHNSON (P39219)
JOHNSON LAW, PLC
Attorneys for Plaintiffs
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Grand Rapids, MI 49503
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COURT OF CLAIMS

COMPLAINT

A Complaint was previously filed on October 31, 2018, in the Court of Claims with a case number 18-000232-MZ, which was assigned to Judge Borrello.

NOW COMES Plaintiff, MARK GOSS, by and through his attorneys, JOHNSON LAW, PLC, and for his Complaint against the above-named Defendant, MICHIGAN DEPARTMENT OF NATURAL RESOURCES state as follows:

1. At all relevant times to this lawsuit, Plaintiff, MARK GOSS ("Mark"), was and continues to be a resident of Ada, Kent County, Michigan.

2. At all relevant times to this lawsuit, Defendant, MICHIGAN DEPARTMENT OF NATURAL RESOURCES (“DNR”), was and continues to be a State agency with offices located in Brimley, Chippewa County, Michigan.

3. Venue is proper before this Honorable Court.

4. The amount in controversy exceeds \$25,000.00 exclusive of costs, interest and attorney fees.

FACTUAL ALLEGATIONS

5. At all relevant times to this lawsuit, Mark was the owner and operator of a 2014 Yamaha Apex snowmobile, VIN Number JYE8JC005EA003649.

6. At all relevant times to this lawsuit, Roy Pederson (“Pederson”) operated a 2015 John Deere XUV 625I Utility UTV, VIN Number 1M0625GSAFM102660, which was owned by the DNR and was being operated by Pederson in the course and scope of his employment with DNR and/or with DNR’s express and/or implied permission and consent.

7. The DNR is the agency of the State of Michigan charged with maintaining natural resources, such as state parks, state forests, and recreation areas. The agency’s creation, powers, and duties as a state agency are vested in MCL 324.501.

8. On February 26, 2018, at approximately 10:36 A.M., Mark was driving eastbound on Snowmobile Trail 8, in Sault Sainte Marie, in Chippewa County.

9. At the same time, Pederson was driving southbound on the Algonquin Cross Country Ski Trail, in Sault Sainte Marie, in Chippewa County.

10. The intersection of Snowmobile Trail 8 and Algonquin Cross Country Ski Trail is a two-way stop, with stop signs posted on the ski trail, instructing traffic to stop for east/west traffic on the Snowmobile trail.

11. Pederson failed to heed the stop sign on Algonquin Cross Country Ski Trail, violating Michigan law, and crashed into the snowmobile operated by Mark.

12. The Sault Sainte Marie Police Department was summoned to the scene and Sergeant Derek O'Dell conducted an investigation.

13. Sergeant O'Dell's investigation concluded that Pederson ran the stop sign at the intersection of Snowmobile Trail 8 and Algonquin Cross Country Ski Trail, causing the collision.

14. Due to his injuries, Mark was transported via Sault Sainte Marie Fire Department to Chippewa County War Memorial Hospital in Sault Sainte Marie.

15. As a result of this collision, Mark suffered multiple physical injuries including, but not limited to; burns over 30% of his total body surface area, deep burns in his right axilla, scapula, upper extremity, left hand, abdomen, right lower extremity, and left lower extremity, traumatic brain injury, open book pelvic fracture, right radial fracture, radioulnar joint dislocation, right femur fracture, amputation of several digits, chronic pain syndrome, and PTSD, thus resulting in serious impairments of body functions and permanent and serious disfigurement, with associated emotional injuries, all of which he will continue to suffer from into the future.

COUNT I: NEGLIGENCE, GROSS NEGLIGENCE

16. Plaintiffs repeat, re-allege and incorporate by reference each and every allegation contained in paragraphs 1-15 as though fully set forth herein.

17. At all times relevant to this lawsuit, DNR entrusted the subject John Deere to Pederson, despite Pederson's incompetency, inexperience and/or recklessness as a driver, which was known or should have been known to DNR, and, Pederson, was operating the ATV with

DNR's express and/or implied consent; thus, DNR is liable for Pederson's acts of negligence, gross negligence and reckless misconduct.

18. At all times relevant to this lawsuit, Pederson was in the course and scope of his employment with DNR, and, thus, DNR is liable to Mark, for Pederson's acts or omissions, pursuant to the doctrine of *respondeat superior*.

19. At the time of the incident, Pederson, and, therefore, DNR, owed certain duties to the general public, and, in particular, to Mark, to operate the John Deere XUV 625I in a safe and reasonable manner without violating traffic laws and/or injuring others.

20. At the time of the incident, Pederson, and thus DNR, breached the above duties in the following ways, including, but not limited to:

- a. Operating the John Deere in a careless, grossly negligent, willful and wanton and/or reckless manner;
- b. Failing to obey traffic laws, including stop signs, yield signs, speed limit signs and railroad signs;
- c. Failing to keep a proper lookout and make proper observations of traffic conditions;
- d. Operating the John Deere Utility UTV too fast for conditions in violation of the posted speed limit, and/or failed to reduce speed;
- e. Operated the John Deere Utility UTV at a rate of speed greater than is reasonable and proper, or in a careless and grossly negligent manner, with respect to the conditions then existing, in violation of MCL 324.81133
- f. Failing to yield to the right of way to the Plaintiff;
- g. Other acts and/or omissions revealed during the course of discovery.

21. As a and/or the direct and proximate result of Pederson's, and, therefore, DNR's negligence, carelessness, recklessness, gross negligence and/or willful and wanton misconduct, Mark suffered serious and permanent impairments of vital bodily functions, permanent and serious

disfigurement, physical and emotional injuries, and will continue to suffer damages indefinitely into the futures, including, but not limited to:

- a. Physical pain and suffering;
- b. Mental anguish;
- c. Fight and shock;
- d. Denial of social pleasures and enjoyments;
- e. Embarrassment, humiliation or mortification;
- f. Possible aggravation of a preexisting ailment or condition;
- g. Excess work loss, past and future;
- h. Lost wages
- i. Medical expenses
- j. All other damages revealed during the course of discovery.

22. The Governmental Tort Liability Act (GTLA), MCL 691.1407, provides immunity from all tort liability arising from activities where the governmental agency was engaged in the exercise of discharge of a governmental function.

23. The GTLA does not provide immunity for the negligent operation of a motor vehicle by an employee of a governmental agency of which the governmental agency is owner. MCL 691.1405.

24. Under MCL 18.1213, a Utility UTV is defined as a motor vehicle.

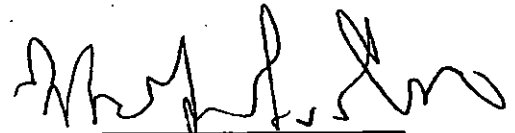
25. As a and/or the direct and proximate cause of Pederson's negligence and/or gross negligence in operating the Utility UTV, Defendants are in violation of the GTLA and Plaintiffs are entitled to damages pursuant to MCL 691.1405.

WHEREFORE, Plaintiffs, Mark Goss, respectfully, requests that this Honorable Court enter a Judgment in his favor against Defendant, DNR, in an amount in excess of \$25,000.00, together with costs, interest, attorney fees and exemplary damages so wrongfully incurred.

VERIFICATION

Plaintiff, being duly sworn, verify this Notice stating:


- 1. I am the Plaintiff in this matter
- 2. I have read the above Complaint.
- 3. The facts contained in the above Complaint are true to the best of my knowledge, information and belief.



Mark Goss

STATE OF MICHIGAN)
 COUNTY OF KENT)SS
)

On the 7th day of January, 2019, before me, a Notary Public in and for the County of Kent, State of Michigan, personally appeared Mark Goss being duly sworn, says that he has read the foregoing Complaint and knows the contents thereof, and that the same is true of his knowledge, information and belief.



Notary Public
Kent County, Michigan
 My commission expires: June 1, 2024

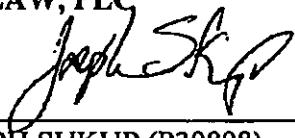
SCOTT FUNKE
 Notary Public - State of Michigan
 County of Kent
 My Commission Expires Jun 1, 2024
 Acting in the County of Kent

Dated: January 7, 2019

Respectfully submitted,

JOHNSON LAW, PLC

By: _____


JOSEPH SUKUP (P39898)
VEN R. JOHNSON (P39219)
Attorneys for Plaintiffs
99 Monroe Avenue NW, Suite 975
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STATE OF MICHIGAN
COURT OF CLAIMS

MARK GOSS,

Plaintiff,

No. 19-000022-MZ

v

HON. CHRISTOPHER M. MURRAY

MICHIGAN DEPARTMENT OF
NATURAL RESOURCES,

Defendant.

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**DEFENDANT'S 02-27-19 MOTION FOR SUMMARY DISPOSITION
BASED ON GOVERNMENT IMMUNITY**

Relief Requested

The Michigan Department of Natural Resources ("DNR"), defendant herein, by Dana Nessel, Attorney General for the State of Michigan, and James T. Farrell, Assistant Attorney General, moves for summary disposition under MCR 2.116(C)(7) because defendant is entitled to government immunity for the claims asserted against it in the Complaint.

Grounds for Relief

This Motion should be granted because:

1. This lawsuit arises out of a tragic February 26, 2018 incident that resulted in the death of a DNR employee. Roy Pederson, age 65, was employed by the Michigan Department of Natural Resources as a State Park Ranger, and on this particular day was operating a State-owned Gator¹ that was towing a cross-country ski-trail grooming rake to groom the Algonquin Cross-Country Ski Trail when he was struck by a snowmobile at the intersection of Snowmobile Trail 8 and the Algonquin Cross-Country Ski Trail, which is on State-owned forest land in Sault Sainte Marie, Michigan. As a result of the collision, the Gator and the snowmobile burst into flames, resulting in Ranger Pederson being burned to death while trapped underneath the wreckage. Mark Goss, the operator of the snowmobile, was severely injured in the collision and subsequent fire.

2. The plaintiff is Mark Goss. Plaintiff has sued the DNR claiming that Ranger Pederson negligently and grossly negligently caused the accident when he ran the stop sign on Algonquin trail and that the DNR is liable for its employee's negligence and gross negligence under the motor vehicle exception of MCL 691.1405. It is the DNR's view that the plaintiff was at fault. But regardless of who was at fault, and despite the allegations and denials of negligence and gross negligence, the DNR is immune from liability under MCL 691.1407(1) and that the

¹ The Gator was a 2015 John Deere Gator XUV 4x4 625i, green in color, which was being used as a landscaping and grounds keeping utility vehicle.

motor vehicle exception to government immunity does not apply because the Gator that Ranger Pederson was operating is not a “motor vehicle” for purposes of that exception. See *Stanton v City of Battle Creek*, 466 Mich 611; 647 NW2d 508 (2002).

3. Defendant’s factual and legal arguments are expanded in the attached Brief.

4. Counsel for the defendant has discussed this case and the defenses raised herein with plaintiff’s attorney, Joseph Sukup, but Mr. Sukup was not persuaded to voluntarily dismiss this case based on that conversation.

WHEREFORE, the Michigan Department of Natural Resources respectfully requests that the Court grant this Motion and dismiss plaintiffs’ case with prejudice.

Respectfully submitted,

DANA NESSEL
Attorney General



James T. Farrell (P35400)
Assistant Attorney General
Michigan Dept. of Attorney General
Attorney for Defendant
Complex Litigation Division
P.O. Box 30736
Lansing, MI 48909
(517) 335-3055
farrellj@michigan.gov

Date: 2/27/2019

CERTIFICATE OF SERVICE

The undersigned certifies that on the date indicated a copy of
**DEFENDANT'S 02-27-19 MOTION FOR SUMMARY DISPOSITION BASED
ON GOVERNMENT IMMUNITY** was served on counsel of record by first-class
mail.

Date: Feb. 27, 2019

Terri J. Davis
Terri J. Davis

STATE OF MICHIGAN
COURT OF CLAIMS

MARK GOSS,

Plaintiff,

No. 19-000022-MZ

v

HON. CHRISTOPHER M. MURRAY

MICHIGAN DEPARTMENT OF
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**BRIEF IN SUPPORT OF DEFENDANT'S 2-27-2019 MOTION FOR
SUMMARY DISPOSITION BASED ON GOVERNMENT IMMUNITY**

I. STATEMENT OF FACTS

On February 26, 2018, Roy Pederson, age 65, of Paradise, Michigan, was employed by the Michigan Department of Natural Resources ("DNR") as a State Park Ranger. That morning Ranger Pederson was grooming the Algonquin Cross-Country Ski Trail, which is on State-owned forest land in Sault Sainte Marie. To groom the ski trail, Pederson used a State-owned John Deere Gator XUV 4x4 625i to tow a grooming rake. The Gator's four wheels had been removed and replaced with tank-type tracks for better traction in the snow. Exhibit A is a photograph of a

similar model Gator with the wheels replaced with tracks. The Gator XUV model is categorized on the John Deere website as a utility vehicle. Exhibit B is a printout from the ATV.com website with the 2015 John Deere Gator XUV 4x4 625i specifications. These vehicles are typically used for landscaping and ground care.

At approximately 10:36 a.m. that morning, Ranger Pederson was traveling south on the Algonquin ski trail at its intersection with Snowmobile Trail 8. He was operating the Gator with the grooming rake attached. At that intersection the traffic on the ski trail is controlled by stop signs while traffic on the snowmobile trail is controlled by yield signs. As Ranger Pederson was crossing the snowmobile trail, his vehicle was struck broadside on the passenger side by a snowmobile traveling from the west at a high rate of speed. The snowmobile was being operated by plaintiff, Mark Goss.

The collision of the two vehicles caused an explosion and fire. Ranger Pederson was trapped under the snowmobile and was burned to death; Goss was thrown about five feet from the wreckage and suffered burn injuries, fractured bones, and internal injuries. Attached as Exhibits C, D, and E, are accident reports prepared by the DNR, the Sault Sainte Marie Police Department, and the Chippewa County Sheriff's Department. Exhibit F is a dozen photographs depicting the scene of the accident.

On January 24, 2019, Mark Goss filed this one-count lawsuit in the Court of Claims against the DNR. He alleges that, at the time and place of this accident, Ranger Pederson operated the Gator negligently, grossly negligently, and recklessly

by, inter alia, failing to stop at the stop sign and proceeding across the snowmobile trail when it was not safe to do so. Plaintiff asserts that the DNR is not immune from liability under MCL 691.1407(1) because the motor vehicle exception to the State's general tort immunity set forth in MCL 691.1405 applies to these facts, and, therefore, the DNR is vicariously liable for the negligence and gross negligence of Pederson in the operation of the Gator.

The DNR denies all allegations of negligence and gross negligence on behalf of Ranger Pederson. It is the DNR's view that the plaintiff, Mark Goss, is guilty of reckless operation of a snowmobile and it was his recklessness that caused the death of Roy Pederson and his own injuries. But regardless of who was negligent or grossly negligent, the DNR is immune from liability under these facts because the Gator that Ranger Pederson was operating is not a "motor vehicle" for purposes of the motor vehicle exception to government immunity. Thus, since there is no exception to the State's immunity that applies to these facts, plaintiff's claims are barred by the State's immunity.

II. STANDARD OF REVIEW

The question of whether the DNR is entitled to government immunity should be decided under MCR 2.116(C)(7). *Maiden v Rozwood*, 461 Mich 109, 146; 597 NW2d 817 (1999).

In *Maiden v Rozwood*, 461 Mich 109, 119-20; 597 NW2d 817 (1999), the Supreme Court stated the legal standards applicable to motions brought under MCR 2.116(C)(7):

A party may support a motion under MCR 2.116(C)(7) by affidavits, depositions, admissions, or other documentary evidence. If such material is submitted, it must be considered. MCR 2.116(G)(5). Moreover, the substance or content of the supporting proofs must be admissible in evidence. Unlike a motion under subsection (C)(10), a movant under MCR 2.116(C)(7) is not required to file supportive material, and the opposing party need not reply with supportive material. The contents of the complaint are accepted as true unless contradicted by documentation submitted by the movant. *Patterson v Kleiman*, 447 Mich. 429, 434, n 6; 526 N.W.2d 879 (1994).

III. ARGUMENT

Plaintiff's injuries did not "result from the negligent operation ... of a motor vehicle" for purposes of the motor vehicle exception to government immunity, MCL 691.1405. Hence, the DNR is immune from liability regardless of whether Ranger Pederson negligently or grossly negligently operated the Gator.

Plaintiff alleges that Ranger Pederson's negligent and grossly negligent operation of the Gator expose the DNR to liability under the motor vehicle exception to government immunity, MCL 691.1405. This is not correct. Even if the allegations of negligence and gross negligence are true the DNR would still be immune from tort liability because the Gator that Ranger Pederson was operating was not a "motor vehicle" within the meaning of the motor vehicle exception to government immunity

The governmental tort liability act (GTLA), MCL 691.1401 et seq., broadly shields and grants to governmental agencies immunity from tort liability when an

agency is engaged in the exercise or discharge of a governmental function. MCL 691.1407(1); *Duffy v Dep't of Natural Resources*, 490 Mich 198, 204; 805 NW2d 399 (2011); *Grimes v Dep't of Transportation*, 475 Mich 72, 76-77; 715 NW2d 275 (2006). “The existence and scope of governmental immunity was solely a creation of the courts until the Legislature enacted the GTLA in 1964, which codified several exceptions to governmental immunity that permit a plaintiff to pursue a claim against a governmental agency.” *Duffy*, 490 Mich at 204. A governmental agency can be held liable under the GTLA only if a case falls into one of the enumerated statutory exceptions. *Stanton v City of Battle Creek*, 466 Mich 611, 615; 647 NW2d 508 (2002); *Chandler v County of Muskegon*, 467 Mich 315, 321; 652 NW2d 224 (2002).

In *Ross v Consumers Power Company (On Rehearing)*, 420 Mich 567, 620; 363 NW2d 641 (1984), the Supreme Court adopted the following definition of “governmental function”:

We therefore conclude that a governmental function is an activity which is expressly or impliedly mandated or authorized by constitution, statute, or other law. When a governmental agency engages in mandated or authorized activities, it is immune from tort liability, unless the activity is proprietary in nature (as defined in § 13) or falls within one of the other statutory exceptions to the governmental immunity act.

The term “governmental function” is to be given a broad interpretation, but the statutory exceptions must be narrowly construed. *Stanton*, 466 Mich at 615. “A plaintiff filing suit against a governmental agency must initially plead his claims in avoidance of governmental immunity.” *Odom v Wayne County*, 482 Mich 459, 478-79; 760 NW2d 217 (2008).

In this case, the State's operation and maintenance of State-owned forest land is an activity which is expressly mandated or authorized by statute. See, e.g., MCL 324.83102. See also Const 1963, art 10, § 5. The Court should therefore conclude that unless one of the statutory exceptions is applicable plaintiff's claim is barred by government immunity.

Plaintiff contends in his Complaint that he may recover from the DNR for his injuries resulting from the negligent and grossly negligent operation of the government-owned Gator by a government employee under the motor vehicle exception. This presents an issue of statutory construction since the Court must determine whether the Gator that Ranger Pederson was operating is a "motor vehicle" as that term is used in the exception. See *Stanton v City of Battle Creek*, 466 Mich 611, 615; 647 NW2d 508 (2002).

The motor vehicle exception states:

Governmental agencies shall be liable for bodily injury and property damage resulting from the negligent operation by any officer, agent, or employee of the governmental agency, of a motor vehicle of which the governmental agency is owner, as defined in [the Michigan Vehicle Code], as amended, being sections 257.1 to 257.923 of the Compiled Laws of 1948.

The Stanton Court ruled that a forklift is not a "motor vehicle" under the exception. It reasoned as follows. The motor vehicle exception does not define "motor vehicle." Furthermore, the statute does not refer to the Michigan Vehicle Code, MCL 257.1 et seq., for the definition.

Grammatically, the final clause of § 1405 sends the reader to the Michigan Vehicle Code only for the definition of "owner." The "last antecedent" rule of statutory construction provides that a modifying or restrictive word or clause contained in a statute is confined solely to the immediately preceding clause or last antecedent, unless something in the statute requires a different

interpretation. *Sun Valley Foods Co v Ward*, 460 Mich. 230, 237; 596 N.W.2d 119 (1999). Applying this rule, the reference to §§ 257.1 to 257.923 in § 1405 defines “owner,” not “motor vehicle,” and nothing in the statute demands a different interpretation. *Haveman v Kent Co Rd Comm'rs*, 356 Mich. 11, 18-22; 96 N.W.2d 153 (1959). *Stanton*, 466 Mich at 616.

The Court then determined the “plain and ordinary meaning” of “motor vehicle.” Looking to the various dictionary definitions, the *Stanton* majority looked to find a narrow definition of the undefined term “motor vehicle,” since precedent required the Court to broadly construe the State’s immunity and narrowly construe the exceptions. The Court settled on the definition of “motor vehicle” as “an automobile, truck, bus, or similar motor-driven conveyance” because it “is the narrower of the two common dictionary definitions (that the Court reviewed). Therefore, we apply it to the present case. A forklift--which is a piece of industrial construction equipment--is not similar to an automobile, truck, or bus. Thus, the motor vehicle exception should not be construed to remove the broad veil of governmental immunity for the negligent operation of a forklift.” *Id.*, at 618.

The Supreme Court followed *Stanton* when it ruled that a golf cart was not a “motor vehicle” in the context of the Michigan government immunity statute. *Overall v Howard*, 480 Mich 896; 738 NW2d 760 (2007).

The Court of Appeals has held that devices such as a hydraulic excavator, a tractor mower, a broom tractor, and a tractor pulling a hay wagon are motor vehicles for purposes of MCL 691.1405. See *Wesche v Mecosta Co Rd Comm*, 267 Mich App 274, 277-278; 705 NW2d 136 (2005), reversed in part on other grounds *Kik v Sbraccia*, 272 Mich App 388; 726 NW2d 450 (2006); *Regan v*

Washtenaw County Board of Road Commissioners (On Remand), 257 Mich App 39, 47-51; 667 NW2d 57 (2003); *Yoches v City of Dearborn*, 320 Mich App 461, 474-75; 904 NW2d 887 (2017). However, the vehicles at issue in *Wesche*, *Regan*, and *Yoches* were motor-vehicle-like conveyances that generally resembled an automobile or truck, that were designed for operation on or alongside the roadway, and each of these conveyances were in fact being operated on or alongside a public road at the time the injury giving rise to the lawsuit occurred. In contrast, the Gator at issue, like the golf cart in *Overall*, is not similar to an automobile, bus, or truck, it was not designed for operation on a public road, and it was not being used on or alongside the roadway at the time of the injury giving rise to this lawsuit.

The Gator in the instant case more closely resembles the forklift at issue in *Stanton* and the golf cart in *Overall* than it does the conveyances at issue in *Wesche*, *Regan*, and *Yoches*. Under the reasoning of *Stanton*, the Gator does not meet the definition of a motor vehicle. Thus, the motor vehicle exception of MCL 691.1405 should not be applied in this case, and the DNR should be entitled to summary disposition under MCL 691.1407(1).

IV. CONCLUSION

Based on the foregoing, the Michigan Department of Natural Resources is entitled to dismissal of this case based on government immunity.

Respectfully submitted,

DANA NESSEL
Attorney General



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farrellj@michigan.gov

Date: 2/27/2019

CERTIFICATE OF SERVICE

The undersigned certifies that on the date indicated a copy of **BRIEF IN SUPPORT OF DEFENDANT'S 2-27-2019 MOTION FOR SUMMARY DISPOSITION BASED ON GOVERNMENT IMMUNITY** was served on counsel of record by first-class mail.

Date: Feb. 27, 2019


Terri J. Davis

EXHIBIT C



INCIDENT REPORT (PART A)

Required under authority of Part 741 of Act 451, P.A. 1994, as amended.

Unit Brimley State Park	District EUP	Date and Time of Incident 2/26/2018	Incident Report Number Brimley 2018-1
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Location of Incident
Algonquin Pathway-intersection of snowmobile trail #8 and Algonquin ski pathway

<input type="checkbox"/> Public Injury	<input type="checkbox"/> Complaint	<input type="checkbox"/> State Property Damage	<input type="checkbox"/> Theft, State Property	<input checked="" type="checkbox"/> Other: Employee Fatality
<input type="checkbox"/> Personal Property Damage	<input type="checkbox"/> Missing/Lost Person	<input type="checkbox"/> Non-Vandalism	<input type="checkbox"/> Enforcement	
<input type="checkbox"/> Theft, Personal Property	<input type="checkbox"/> Dog/Pet Problem	<input type="checkbox"/> Vandalism	<input type="checkbox"/> Public Vehicle Accident	

#1 WITNESS OR PERSON INVOLVED

Last Name	First Name	MI	Date of Birth
Pederson	Roy	L	12-07-1952
Street Address	Telephone		
9350 N Whitefish Pte Rd	(906)492-3651		
City, State, ZIP			
Paradise, MI 49768			

#2 WITNESS OR PERSON INVOLVED

Last Name	First Name	MI	Date of Birth
Goss	Mark	S	09-06-1959
Street Address	Telephone		
9319 Fulton St. E			
City, State, ZIP			
Ada, MI 49301			

#3 WITNESS OR PERSON INVOLVED

Last Name	First Name	MI	Date of Birth
See attached police report 763-18			
Street Address	Telephone		
City, State, ZIP			

#4 WITNESS OR PERSON INVOLVED

Last Name	First Name	MI	Date of Birth
See attached police report 763-18			
Street Address	Telephone		
City, State, ZIP			

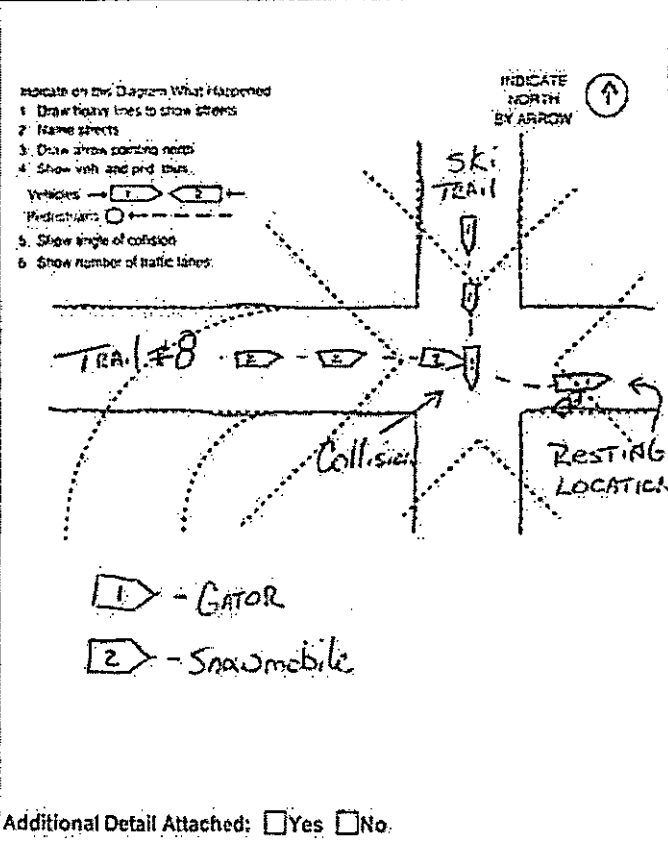
EMPLOYEES INVOLVED

Last Name	First Name	Title	Involvement
Pederson	Roy	Ranger E-8	Operating JD Gator XUV 625i-Died on scene
Butcher	Corey	Supervisor	On scene after accident took place

#1 VEHICLE INVOLVED

License Plate No	State	Year	Make & Model
S6698	MI	2015	JD Gator XUV 625i
Driver Last Name	First Name	MI	
Pederson	Roy	L	
Date of Birth	Driver License No.	State of Issue	
12-07-1952	P 362 744 497 932	MI	
Street Address			
9350 N. Whitefish Pte. Rd.			
City, State, ZIP			
Paradise, MI 49768			

VEHICLE ACCIDENT DIAGRAM



#2 VEHICLE INVOLVED

License Plate No	State	Year	Make & Model
N00626	MI	2014	Yamaha Apex snowmobile
Driver Last Name	First Name	MI	
Goss	Mark	S	
Date of Birth	Driver License No.	State of Issue	
09-06-1959	G200585760694	MI	
Street Address			
9319 Fulton St. E			
City, State, ZIP			
Ada, MI 49301			

#3 VEHICLE INVOLVED

License Plate No	State	Year	Make & Model
Driver Last Name	First Name	MI	
Date of Birth	Driver License No	State of Issue	
Street Address			
City, State, ZIP			

Additional Detail Attached: Yes No.

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ASSISTANCE	ACTION TAKEN
<input checked="" type="checkbox"/> Law Enforcement Agency Name <u>Sault Ste. Marie Police Dept.</u>	<input type="checkbox"/> First Aid <input type="checkbox"/> Warning <input type="checkbox"/> Evidence
<input checked="" type="checkbox"/> Ambulance Company <u>Sault Ste. Marie Ambulance</u>	<input type="checkbox"/> Ticket/Arrest <input type="checkbox"/> Dump
<input checked="" type="checkbox"/> Fire Department <u>Sault Ste. Marie Fire Dept.</u>	<input type="checkbox"/> Reported to Another _____
<input type="checkbox"/> Other (Name) _____	
Describe Action taken by those assisting (attach additional sheets if needed)	
First on scene of accident- treated persons involved and conducted investigation: (763-18)	<input checked="" type="checkbox"/> Other <u>Investigating Accident</u>

DETAILS - DESCRIBE WHAT HAPPENED (include persons, weather, cause, fault, pictures etc.)

On 2/26/18 at approximately 10:50am, while off duty, I received a phone call from Robert Shields (DNR/FRD/Sault Fire Supervisor). He informed me that Ranger Pederson was involved in an accident with a snowmobile, while grooming the Algonquin Ski Trail.

While enroute to the accident scene, I informed EUP District Supervisor Eric Cowing via cell phone about the accident. At approximately 11:50am, I arrived at the intersection of 20th Street W. and snowmobile trail #8, which was the staging area for the incident. Upon arrival, I was approached by MIDNR Conservation Officer Calvin Smith, who had a snowmobile available for me to ride to the accident scene.

After reaching the accident scene, I was met by Sault Ste. Marie Police Seargent O'dell. Seargent O'dell asked me if I knew who was grooming the ski trail with the gator that day. I told him the only person it could be was Roy Pederson. Seargent O'dell then informed me that Roy Pederson had died at the scene.

Upon leaving the scene of the accident, I accompanied Conservation Officer Smith and Conservation Officer Ingerson to give the death notification to Diane Pederson (Roy's wife).

At the accident scene, I observed Brimley State Park's 2015 John Deere tracked gator XUV 6251 completely burned and still smoking. The gator was on the south half of snowmobile trail #8, facing in an eastward direction, approximately 15 feet east of the ski trail/snowmobile trail intersection.

See attached Sault Ste. Marie Police report #763-18

OTHER INFORMATION	FOLLOW UP
<input type="checkbox"/> None <input checked="" type="checkbox"/> Police Report <input type="checkbox"/> Photographs <input type="checkbox"/> Witness Statements	Is Follow-Up Action Required? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Other <u>Sault Ste. Marie FD conducted investigation 763-18</u>	If Yes, Describe: <u>Conduct FRD investigation complete supervisory accident report</u>
<input checked="" type="checkbox"/> State Property Damaged or Stolen? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If Yes, Indicate Repair Cost	Total Staff Time on This Incident: _____
Total Materials \$ _____	
Total Labor \$ _____	
Total Cost \$ _____	

<u>Corey Butcher</u> Unit Supervisor	<u>Eric Cowing</u> District Supervisor
Name of Employee Making Report Title	Name of Supervisor Title
<u>Corey Butcher</u> Signature	<u>[Signature]</u> Supervisor's Signature
<u>4/9/18</u> Date	<u>4/23/18</u> Date

STATE OF MICHIGAN
IN THE COURT OF CLAIMS

MARK GOSS

Plaintiff,

vs

Case No. 19-000022-MZ

Hon. Stephen Borrello

MICHIGAN DEPARTMENT
OF NATURAL RESOURCES,

Defendant.

JOSEPH SUKUP (P39898)
JEREMY R TIEDT (P79856)
VEN R. JOHNSON (P39219)
JOHNSON LAW, PLC
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**PLAINTIFF'S 03-13-2019 RESPONSE TO DEFENDANT'S 02-27-2019 MOTION FOR
SUMMARY DISPOSITION BASED ON GOVERNMENTAL IMMUNITY**

ORAL ARGUMENT REQUESTED

Relief Requested

NOW COMES Plaintiff, Mark Goss (hereinafter "Mark"), by and through his attorneys, Johnson Law, PLC, in response to of Defendant, Michigan Department of Natural Resources' (hereinafter "DNR"), Motion for Summary Disposition based on governmental immunity. For the reasons set forth in Plaintiff's brief in support of this response, Plaintiff respectfully requests that this Honorable Court deny the requested relief. The record establishes that the Plaintiff's claims

fall within one or more of the five statutory exceptions to governmental immunity, such that governmental immunity does not apply, and summary disposition is inappropriate.

Grounds for Relief

Plaintiff submits that Defendant's Motion for Summary Disposition should be denied.

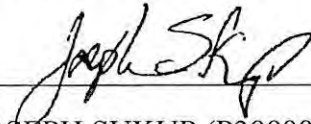
1. No Contest.
2. Plaintiff admits that he has filed the subject lawsuit but denies that the Defendant is immune from liability under MCL 691.1407(1) and denies that the subject Gator is not a "motor vehicle" for purposes of the motor vehicle exception to governmental immunity.
3. No Response is required.
4. Admitted.

WHEREFORE, the Plaintiff, Mark Goss, respectfully requests that this Honorable Court deny, in all respects, Defendants' Motion for Summary Disposition pursuant to MCR 2.116(C)(7). In the alternative, Plaintiff, Mark Goss, respectfully requests that this Honorable Court allow the parties to conduct discovery in this matter as it stands a fair chance of uncovering factual support for the position that the John Deere Gator is a motor vehicle under MCL 691.1405.

Dated: March 13, 2019

Respectfully submitted,

JOHNSON LAW, PLC

By:  _____

JOSEPH SUKUP (P39898)

JEREMY TIEDT (P79856)

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STATE OF MICHIGAN
IN THE COURT OF CLAIMS

MARK GOSS

Plaintiff,

vs

Case No. 19-000022-MZ

Hon. Stephen Borrello

MICHIGAN DEPARTMENT
OF NATURAL RESOURCES,

Defendant.

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**PLAINTIFF'S 03-13-2019 BRIEF IN RESPONSE TO DEFENDANT'S 02-27-2019
MOTION FOR SUMMARY DISPOSITION BASED ON GOVERNMENTAL
IMMUNITY**

ORAL ARGUMENT REQUESTED

Relief Requested

NOW COMES Plaintiff, Mark Goss (hereinafter "Mark"), by and through his attorneys, Johnson Law, PLC, in response to of Defendant, Michigan Department of Natural Resources' (hereinafter "DNR"), Motion for Summary Disposition based on governmental immunity. For the reasons set forth in Plaintiff's brief in support of this response, Plaintiff respectfully requests that this Honorable Court deny the requested relief. The record establishes that the Plaintiff's claims

fall within one or more of the five statutory exceptions to governmental immunity, such that governmental immunity does not apply, and summary disposition is inappropriate.

Introduction

This matter stems from a snowmobile and John Deere Gator UTV collision that occurred on February 26, 2018, at the intersection Soo/Strongs Snowmobile Trail (Trail #8) and the Algonquin Cross Country Ski Trail (Between Loop A and Loop B) near Sault Ste. Marie, Michigan. Plaintiff, Mark Goss was operating his Yamaha Apex Snowmobile in a northeast direction upon the Soo/Strongs Snowmobile Trail (Trail #8), when Defendant, Michigan Department of Natural Resources employee, Roy Pederson, failed to stop at a stop sign on the Algonquin Cross Country Ski Trail, causing the catastrophic collision. On January 24, 2019, Mark filed a complaint against the Defendant, DNR, alleging negligence/gross negligence by the DNR for the injuries he sustained in this incident. (See Exhibit #1). The DNR, in response, filed their Motion for Summary Disposition pursuant to MCR 2.116(C)(7), in lieu of filing an answer to the complaint. To date, no discovery has been conducted by the parties in this matter.

Statement of Facts

On February 26, 2018, Mark Goss was travelling upon the Soo/Strong Snowmobile (Trail #8) path travelling in a northeasterly direction towards Sault Ste. Marie. He was snowmobiling that day with Joseph Eckelstafer (Herein "Eckelstafer"). Prior to this incident, Mark and Eckelstafer had eaten breakfast in Brimley and were travelling to Sault Ste. Marie. As they approached the Algonquin Cross Country Ski Trail area of the Soo/Strong Snowmobile path, Mark was travelling in front of Eckelstafer.

At the same time when Mark and Eckelstafer were travelling upon the Soo/Strong path, Roy Pederson (Herein referred to as "Pederson"), an employee of the DNR, was operating a state-

owned John Deere Gator XUV 4x4 625i. Pederson was operating the John Deere Gator on the Algonquin Cross Country Ski Trail and was pulling a grooming rake, to groom the cross-country ski trails. Pederson's John Deere Gator had the tires removed and had snowmobile tracks installed in order to groom the trail properly. Pederson was grooming a section of the Algonquin Ski Trail that connected Loop A and Loop B. (See Exhibit No. 2 Algonquin Ski Trail Map). At the time of this collision, Pederson had at least two gas cans and a propane tank in the cargo area of the John Deere Gator. As Pederson approached the intersection of the ski trail and the snowmobile trail, he failed to properly stop at the stop sign and failed to observe Mark travelling in a north east direction, having the right of way. Pederson pulled out in front of Mark and a violent collision occurred. (See Incident Photos – Exhibit No. 3).

Eckelstafer was traveling behind Mark and did not see the collision, but he came upon the scene shortly after the impact. He observed both the John Deere Gator and Mark's snowmobile in flames. Mark had been thrown three to four feet from his snowmobile that was engulfed in flames. Eckelstafer and a passerby were able to pull Mark further away from the engulfed wreckage, while waiting for the police to arrive.

Sargeant Derek O'Dell and Officer Matson of the Sault Ste. Marie Police Department were the first to arrive. Sergeant Francic DeShano conducted an investigation and generated an incident report for this matter. (See Exhibit No. 4). The intersection of the Algonquin Cross Country Ski Trail with the Soo/Strong Path is controlled by a stop sign for the Algonquin Trail and a Yield Sign for the Soo/Strong Path. (See Photos in Exhibit No. 5). Sergeant DeShano concluded that Pederson failed to yield the right of way upon entering the intersection with the snowmobile trail.

As a result of Pederson's actions, a violent collision occurred. As a result, Pederson was pronounced dead at the scene of the incident. Mark sustained multiple fractures throughout his

body, severe burns covering at least 30% of his body, a traumatic brain injury, an open book pelvic fracture, right radial fracture, right femur fracture, amputation of several digits on his right hand, chronic pain syndrome and post traumatic stress disorder. He was immediately flown to Spectrum Butterworth Hospital in Grand Rapids, where he has undergone multiple surgical procedures.

Deputy Sheriff Timothy Robbins, has signed an affidavit in this matter regarding the vehicle characteristics of the John Deere Gator operated by Pederson at the time of this incident. (See Timothy Robbins Affidavit – Exhibit #6). Deputy Robbins has said this model of John Deere Gator was equipped with the following: a windshield, seat belts, a roof, a motor, a steering wheel, mirrors, transmission and gear shift mechanism, including reverse, headlights, brake lights, tail lights, four tires and/or tracks, doors, side windows, bumpers, brakes, accelerator pedal, seating for 2 persons, speedometer, tachometer, trip odometer, temperature warning, fuel gage, trailer hitch, power outlet, and a cup holder. (Id.)

Timothy Robbins has opined that the subject John Deere Gator in this matter is a motor vehicle as defined by the State of Michigan. (Id.) He has also opined that it is not uncommon for ORVs or tracked vehicles to be operated on public roadways, subject to restrictions. (Id.) Chippewa County, the site of this incident has an ORV ordinance in place that allows ORVs to operate on county roadways, under certain conditions. (Id.).

Defendant, DNR, filed a Motion for Summary Disposition stating they are immune from liability under MCL 691.1407(1) and that the motor vehicle exception to governmental immunity does not apply because the John Deere Gator is not a “motor vehicle” for purposes of that exception. As explained by Timothy Robbins’s affidavit and the examination of the case law below, the DNR’s argument that the John Deere Gator is not a “motor vehicle” fails and this motion must be denied.

Standard of Review

The DNR seeks Summary Disposition pursuant to MCR 2.116(C)(7). The basis for summary disposition under MCR 2.116(C)(7) is that the moving party is entitled to entry of judgment, dismissal of the action, or other relief because of the immunity granted by law (among other reasons). A party may support a motion under MCR 2.116(C)(7) by affidavits, depositions, admissions, or other documentary evidence; if such material is submitted and the substance or content of the supporting proofs are admissible in evidence, the in must be considered. *Maiden v Rozwood*, 461 Mich 109, 119; 597 NW2d 817, 823 (1999). However, unlike a motion under subsection (C)(10), neither movant nor the responding party is required to file supportive material, and the opposing party need not reply with supportive material. Rather, the contents of the complaint are accepted as true unless contradicted by documentation submitted by the movant. *Id.*, citing *Patterson v Kleiman*, 447 Mich 429, 434, n 6; 526 NW2d 879 (1994). Here, Plaintiff, Mark Goss's claims fall within one or more of the five statutory exceptions to governmental immunity, such that governmental immunity does not apply and summary disposition is inappropriate.

Argument

The Michigan Department of Natural Resources is not Protected by Governmental Immunity Because the Actions Complained of Fall Within Exceptions to Governmental Immunity.

The Governmental Tort Liability Act (MCL 691.1407) provides immunity from all tort liability arising from activities in which the governmental agency was engaged in the exercise or discharge of a governmental function, except as otherwise provided in the Act. The Act sets forth five statutory exceptions to immunity:

1. The failure to maintain and repair highways;
2. The negligent operation of government-owned vehicles;
3. Dangerous or defective conditions on public buildings;
4. The performance of proprietary functions; and

5. The ownership or operation of a governmental hospital.

Defendant, DNR, is not entitled to governmental immunity from tort liability because of the statutory exceptions for negligent operation of government-owned vehicles.

I. The Claims Against the DNR Fall Within the Exception to Governmental Immunity for Negligent Operation of a Government-Owned Vehicle in Violation of MCL 691.1405.

MCL 691.1405 provides in pertinent part that “governmental agencies shall be liable for bodily injury and property damage resulting from the negligent operation by any officer, agent, or employee of the governmental agency, of a motor vehicle of which the governmental agency is the owner...” There are five elements to this exception:

1. A motor vehicle was involved;
2. A governmental agency was the owner of the vehicle;
3. The vehicle was operated as a motor vehicle;
4. By an officer, agent or employee of the governmental agency; and
5. That bodily injury or property damage resulted from the negligent operation.

It is undisputed that the John Deere Gator in this incident was state-owned by the DNR and that the John Deere Gator in at issue was operated by Roy Pederson, an employee of the DNR, thereby satisfying the 2nd and 4th prerequisites for the motor vehicle exception to governmental immunity. Further, it is undisputed that Mark Goss sustained a bodily injury as a result of this collision. The investigation conducted by Sergeant DeShano concluded that Pederson failed to yield the right of way upon entering the intersection with the snowmobile trail. As a result of Pederson’s negligent/gross negligent operation the John Deere Gator, the 5th prerequisite is satisfied.

The GTLA does not define the term “motor vehicle” so the Court must apply the plain and ordinary meaning of that term to determine if the John Deere Gator was a motor vehicle within this exception. *Stanton v. City of Battle Creek*, 466 Mich 611; 647 NW2d 508 (2002). According

to *Stanton*, the term “motor vehicle” means automobiles, trucks, buses, or other similar motor driven conveyances. *Stanton*, at 618.

Stanton held that a forklift was not a motor vehicle under this exception as it was a piece of industrial construction equipment. (Id.). More recently though, as Defendant recognizes, the Michigan Court of Appeals has held that a “tractor pulling a hay wagon”, a “broom tractor”, a “tractor mower” and a “Gator” were motor vehicles for the purposes of MCL 691.1405. See *Yoches v. City of Dearborn*, 320 Mich. App. 461; 904 N.W.2d 887 (2017), consolidated cases of *Regan v. Washtenaw County Bd of Rd Comm’rs* and *Zelanko v. Washtenaw County Bd or Rd Comm’rs*, 257 Mich App 39; 667 N.W.2d 57 (2003), and *Yousif v. City of Sterling Heights*, 2009 Mich App. LEXIS 2282; 2009 WL 3291701 (Unpublished 2009 Opinion).

The Court in *Regan* stated that both the broom tractor and the tractor mower “are clearly motor-driven conveyances, in that they are motorized and carry or transport operators over the road or alongside the road, while operators are performing governmental duties. *Regan* at 47. Further, *Regan* disagreed with the proposition that in order to be a “motor vehicle” under MCL 691.1405, that the “principal function” of the “motor vehicle” must be to transport or carry passengers. *Regan* stated, “limiting the definition in this manner would exclude numerous governmental vehicles that traverse Michigan roadways, including, snowplows, **utility** and construction vehicles, and emergency vehicles that are used in a maintenance, improvement or service capacity. (Id. Emphasis added).

In the unpublished opinion in *Yousif v. City of Sterling Heights*, the Court found that a Gator utility tractor being used as a shuttle to festival goers in Sterling Heights, was a motor vehicle under MCL 691.1405. *Yousif v. City of Sterling Heights*, 2009 Mich App. LEXIS 2282; 2009 WL 3291701 (Unpublished 2009 Opinion). At issue in the matter before this Honorable Court, is

whether the John Deere Gator being used for trail grooming purposes is a “motor vehicle” under MCL 691.1405. Based on the above referenced Court of Appeals cases, it would be appropriate for this Honorable Court to conclude that the John Deere Gator is a motor vehicle under MCL 691.1405.

The John Deere Gator in this matter is more like an automobile, truck, bus or other similar motor-driven conveyances such as a broom tractor, tractor mower or a Gator used for transportation, than it is to a forklift or a golf cart. Specifically, the John Deere Gator is a 4x4 UTV (utility vehicle or utility task vehicle) which is equipped with an engine, gas motor, an accelerator, windshield, seatbelts, mirrors, transmission and gear shift mechanism, steering wheel, head lights, brake lights, tail lights, doors, brakes, speedometer, tachometer, power outlet, cup holder, and a trailer hitch. (Exhibit 6) (See Also Exhibit 7 – Full 2015 John Deere Gator XUV 4x4 625i Specifications). At the time of this incident it was being used to groom cross- country ski trails in the Lake Superior State Forest – Algonquin Ski Trails. At the intersection of the Algonquin Ski Trail and the Soo/Strongs Snowmobile Trail, are traffic control devices. (Exhibit 5). Stop signs are posted for traffic traveling on the ski trail and yield signs for vehicles travelling on the snowmobile trail. (Id.). Vehicles travelling on these paths must obey the rules of the road. It is similar in every regard to the Gator in *Yousif*.

As stated in *Regan*, just because a vehicle is being used for maintenance purposes, instead of the transportation of paying passengers, does not mean it is no longer a motor vehicle under MCL 691.1405. The Gator operated in this matter by Pederson was being used to groom a cross-country ski trail, instead of transporting paying passengers. Pursuant *Regan*, the use of the vehicle for maintenance does not convert it from being defined as a “motor vehicle,” under MCL 691.1405, to falling outside of the definition. Therefore, this Court should find that the John Deere Gator

being operated by Pederson at the time of this incident is a motor vehicle under MCL 691.1405, satisfying the 1st and 3rd prerequisites for the motor vehicle exception to governmental immunity. As such, the Court should deny Defendant's Motion for Summary Judgment.

II. In the Alternative, the Plaintiff Requests Discovery to Proceed Prior to a Hearing On Defendant's Motion for Summary Disposition in Order to Fully Investigate the Multiple Uses of the John Deere Gator in Question.

Defendant filed its Motion for Summary Disposition, pursuant to MCR 2.116(C)(7), in lieu of filing an answer to the complaint. To date, no discovery has been conducted by the parties in this matter. The Plaintiff is requesting the opportunity to conduct written and oral discovery in order to fully respond to Defendant's Motion for Summary Disposition, as the Plaintiff believes discovery stands a fair chance of uncovering factual support for the position that the John Deere Gator is a motor vehicle under MCL 691.1405.

"Generally, summary disposition under MCR 2.116(C)(10) is premature if it is granted before discovery on a disputed issue is complete." *Marilyn Froling Revocable Living Trust v Bloomfield Hills Country Club*, 283 Mich App 264, 292; 769 NW2d 234 (2009). Even though Defendant, moved for Summary Disposition pursuant to MCR 2.116(C)(7), discovery in this matter stands a fair chance of uncovering factual support for the position that the John Deere Gator is a motor vehicle under MCL 691.1405.

In particular, written and oral discovery will likely lead to factual support that the John Deere Gator in question was used upon the roadways prior to this incident. Further, it will lead to factual support as to the winter and summertime use of the Gator. Finally, discovery should lead to factual support as to the funds used to purchase the John Deere Gator and the intended use of the Gator.¹

¹ Plaintiff is of the belief that discovery in this matter could lead to information that the Def. DNR was maintaining the Algonquin Ski Trail for monetary gain. If this is the case, the Plaintiff would seek leave to file an Amended

Conclusion


For those reasons, Plaintiff, Mark Goss, respectfully requests that this Honorable Court deny, in all respects, Defendants' Motion for Summary Disposition pursuant to MCR 2.116(C)(7). In the alternative, Plaintiff, Mark Goss, respectfully requests that this Honorable Court allow the parties to conduct discovery in this matter as it stands a fair chance of uncovering factual support for the position that the John Deere Gator is a motor vehicle under MCL 691.1405.

Dated: March 13, 2019

Respectfully submitted,

JOHNSON LAW, PLC

By: _____


JOSEPH SUKUP (P39898)
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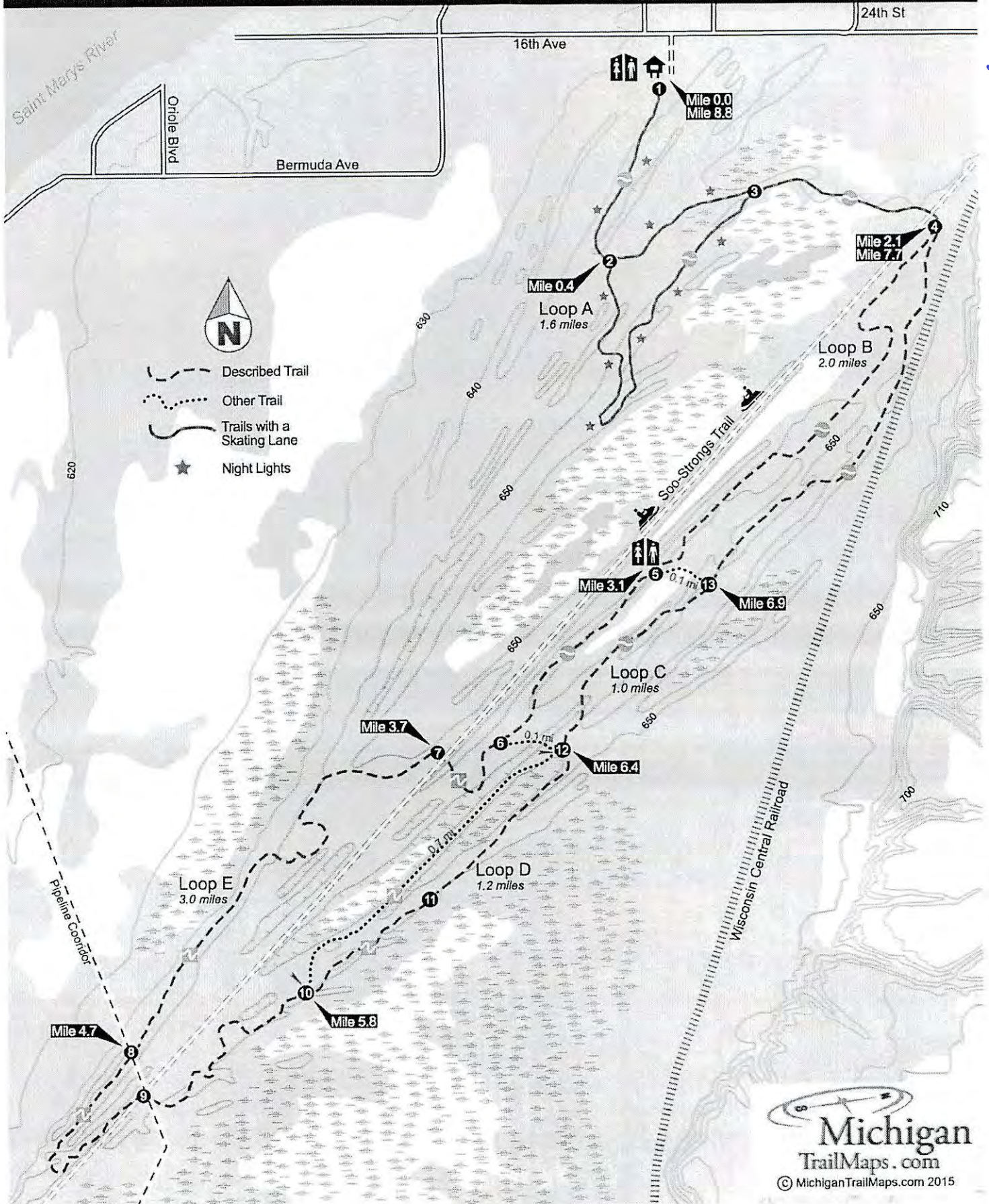
Complaint, adding an additional count of recovery under the exception to Governmental Immunity for Proprietary Functions.

EXHIBIT 2

Algonquin Ski Trail

Lake Superior State Forest

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Michigan
TrailMaps.com
© MichiganTrailMaps.com 2015

EXHIBIT 3

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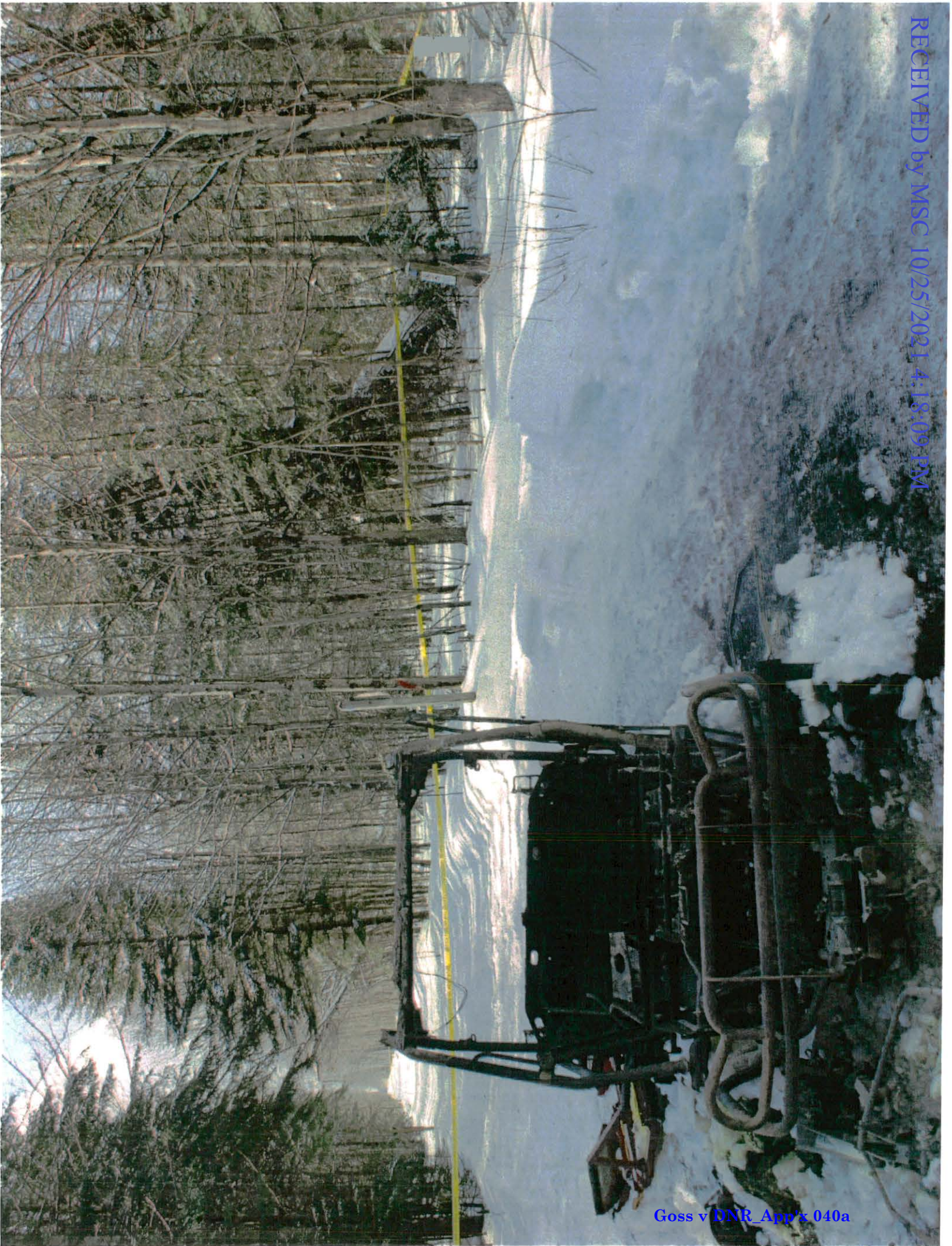




EXHIBIT 4

Sault Ste. Marie Police Department -- (906) 632-5744
401 Hursley Street, Sault Ste. Marie, MI 49783

Incident No: 18-000763
Status: CLOSED

Date Reported: Mon 02/26/2018 10:34:18 Occurred Between: Mon 02/26/2018 10:34:18
Dispatch Time: 10:36:55 Arrival Time: 10:40:36 Clear Time: 15:39:42
CFS Number: 2018037684
Officers: O'DELL, DEREK Detective:
Classification: ACCIDENT, TRAFFIC -- (9301)
Location: SNOWMOBILE TRAIL 8/W 20TH, SAULT STE. MARIE Section / Nbh: /
Description: SNOWMOBILE PIA Entered: CADIMPORT

Complainant / Witness: (9301 ACCIDENT, TRAFFIC)

ECKELSTAFER, JOSEPH, THOMAS DOB: 11/04/1962 Age: 55
10710 7 MILE RD NE Phone: (616)901-6217
ROCKFORD, MI 49341

[REDACTED]

Resident: Resident of state, but not community

Driver / DECEASED: (9301 ACCIDENT, TRAFFIC)

PEDERSON, ROY, LEE DOB: 12/07/1952 Age: 65
9350 N. WHITEFISH RD
PARADISE, MI 49768

[REDACTED]

Driver: (9301 ACCIDENT, TRAFFIC)

GOSS, MARK, SCOTT DOB: 09/06/1959 Age: 58
9319 FULTON ST E
ADA, MI 49301

[REDACTED]

Resident: Resident of state, but not community

Witness: (9301 ACCIDENT, TRAFFIC)

ARMSTRONG, ADAM, JACOB DOB: 09/08/1988 Age: 29
2055 W 17TH ST Phone: (906)322-8484
SAULT STE MARIE, MI 49783 Cell: (906)322-0892 (Cell)

[REDACTED]

Other: (9301 ACCIDENT, TRAFFIC)

BUTCHER, COREY, ALAN DOB: 10/02/1975 Age: 42
9775 S MACKINAC TRAIL Phone: (906)635-9947
SAULT STE MARIE, MI 49783

[REDACTED]

Weight: 000 lbs.

Reported By: _____ Reviewed By: O'DELL, DEREK Date Printed: 06/26/2018
Page 1 of 11 Reviewed Date: 03/13/2018

Incident No: 18-000763

Other: (9301 ACCIDENT, TRAFFIC)

PEDERSON, DIANE, MARIE
DOB: 09/15/1952 Age: 65
[REDACTED]

Other: (9301 ACCIDENT, TRAFFIC)

ECKELSTAFER, KIMBERLY, J
10710 7 MILE RD NE
ROCKFORD, MI 49341
Phone: [REDACTED]
Race: White Sex: Female

Other: (9301 ACCIDENT, TRAFFIC)

GOSS, CHRISTY
93119 FULTON ST E
ADA, MI 49301
Phone: [REDACTED]
Race: Unknown Sex: Female

Officer: (9301 ACCIDENT, TRAFFIC)

SGT, O'DELL

Officer: (9301 ACCIDENT, TRAFFIC)

OFFICER, WEIST

Officer: (9301 ACCIDENT, TRAFFIC)

OFFICER, MATTSON

Officer: (9301 ACCIDENT, TRAFFIC)

DET, LACROSS

Officer: (9301 ACCIDENT, TRAFFIC)

SGT, DESHANO

Officer: (9301 ACCIDENT, TRAFFIC)

DEPUTY, MITCHEL

Officer: (9301 ACCIDENT, TRAFFIC)

CONSERVATION OFFICER*, INGERSON

Officer: (9301 ACCIDENT, TRAFFIC)

CONSERVATION OFFICER, SMITH

Officer: (9301 ACCIDENT, TRAFFIC)

AGENT, HUNT

Other: (9301 ACCIDENT, TRAFFIC)

GARLINGHOUSE, DR, DR
333 MAGAZINE STREET
SAULT STE MARIE, MI 49783
Phone: [REDACTED]
Weight: 000 lbs.

Vehicles:


GREEN 2015 JOHN DEERE 625I GATOR XUV	Tag: SV 1543 / MI	Unit: 1
Registered To: STATE OF MICHIGAN DNR	VIN: 1M0625GSAFM102660	
Status: TOWED	Value: 1	
Towed To: SUPERIOR		
RED 2014 YAMAHA APEX SNOWMOBILE	Tag: NU0626 / MI	Unit: 2


Reported By: _____ Reviewed By: O'DELL, DEREK Date Printed: 06/26/2018
Reviewed Date: 03/13/2018


Incident No: 18-000763


Vehicles:
 Registered To: **MARK SCOTT GOSS** VIN: **JYE8JC005EA003649**
 93119 FULTON ST. E
 ADA, MI. 49301
 Status: **TOWED** Value: 1
 Towed To: **SUPERIOR**


Property:

1) **BLACK BRP HELMET PARTIALLY BURNED** 
 Item Num: 18-000763-001 Class: **Recreational/Sports Equipment** Value: **\$1.00**
 Loss Type: **Evidence** Qty: **1**
 Type: **Forensic Evidence**
 Color: **BLACK** Color: **CLEAR**


2) **PAIR OF BLACK SOREL WINTER BOOTS SIZE 11** 
 Item Num: 18-000763-002 Class: **Recreational/Sports Equipment** Value: **\$1.00**
 Loss Type: **Evidence** Qty: **1**
 Type: **Forensic Evidence**
 Color: **BLACK** Color: **BLACK**


3) **SINGLE BLACK YAMAHA LEATHER GLOVE** 
 Item Num: 18-000763-003 Class: **Recreational/Sports Equipment** Value: **\$1.00**
 Loss Type: **Evidence** Qty: **1**
 Type: **General Property**
 Color: **BLACK**

4) **BLACK BRP HELMET** 
 Item Num: 18-000763-004 Class: **Recreational/Sports Equipment** Value: **\$1.00**
 Loss Type: **Returned** Qty: **1**
 Type: **General Property**
 Color: **BLACK** Color: **CLEAR**

5) **PAIR OF BLACK/RED FXR GLOVES** 
 Item Num: 18-000763-005 Class: **Recreational/Sports Equipment** Value: **\$1.00**
 Loss Type: **Returned** Qty: **1**
 Type: **General Property**
 Color: **BLACK** Color: **RED**

Evidence:

1) **WALLET, ID , CREDIT CARDS** 
 Item Num: 18-000763-006
 Tag No: 120006805 Category: **Found Property** Submitted on: **03/01/18**
 Loss Type: **Returned** Submitted by: **AUTORE, KRISTIN**
 Type: **General Property** Value: **\$1.00**
 Color: **BLK** Color: **BLK**

2) **\$501 US CURRENCY** 
 Item Num: 18-000763-007
 Tag No: 120006806 Category: **Found Property** Submitted on: **03/01/18**
 Loss Type: **Returned** Submitted by: **AUTORE, KRISTIN**
 Type: **Currency/ Money** Value: **\$501.00**

Incident No: 18-000763

Evidence:

Color: GRN Color:
 Currency Type: U.S. Currency Total Amount: \$ 501.00

1 Hundred Dollar Bills	\$	100.00
1 Fifty Dollar Bills	\$	50.00
17 Twenty Dollar Bills	\$	340.00
1 Ten Dollar Bills	\$	10.00
1 One Dollar Bills	\$	1.00

Notes: PREVIOUSLY LOCATED IN ITEM 6

INITIAL INCIDENT INFORMATION: Reporting Officer: O'DELL, DEREK

Officers were dispatched to the snowmobile trail near W. 20th for a report of a snowmobile/Gator accident. Officers were also informed that the snowmobile was on fire and someone was trapped underneath it. Upon investigation Officers were able to determine that a snowmobile collided with a John Deere Gator that was grooming the ski trail. Due to the collision and fire Roy Pederson died in the accident, Mark Goss was critically injured and subsequently flown to Butterworth Hospital in Grand Rapids. Joe Eckelstafer & Adam Armstrong were also injured trying to assist the other 2 victims.

VENUE: Snowmobile Trail 8, .46 miles West from W 20th St.

DATE & TIME: 2-26-18 1036

EVENTS LEADING UP TO OFFICERS ARRIVAL:

Goss & Eckelstafer were riding snowmobiles East bound from 5 Mile Rd. on Trail 8 heading towards Sault Ste. Marie. Goss was the lead snowmobile and Eckelstafer was following behind him. Pederson was grooming the Algonquin Ski trail in a John Deere Gator pulling a grooming rake. Pederson was traveling South on the ski trail and as Pederson attempted to cross Trail 8 he pulled out onto the snowmobile trail in front of Goss. Goss and his snowmobile struck the Gator on the passenger side, both vehicles caught on fire from the collision.

Eckelstafer was traveling behind Goss at a distance that he did not see the accident and only could see the fire as he was approaching. Eckelstafer stopped and found Goss approx. 3-4 feet from the burning wreckage on the South side of the trail. Eckelstafer attempted to move Goss, but could not. Eckelstafer then rode out to W 20th and flagged down a passing motorist (Armstrong), who rode back to the wreckage with Eckelstafer. Both Eckelstafer and Armstrong were able to pull Goss further away from the burning wreckage, but they were unable to help Pederson from the Gator.

INVESTIGATION:

U/O and Officer Mattson were the first 2 Officers to arrive. Upon arrival Officers could see a John Deere Gator style of vehicle fully engulfed in flames. A few feet from the flames was another snowmobile (Eckelstafer's) with a man standing next to it. This subject was identified as Eckelstafer, who stated that his friend was lying in the woods and needed help.

Officers found Goss lying in the snow on the South side of the trail approx. 10-15 feet from the flames. Standing near Goss was another male subject identified as Armstrong. U/O could see that Goss was severely burned. Goss'

Reported By: _____ Reviewed By: O'DELL, DEREK Date Printed: 06/26/2018
 Page 4 of 11 Reviewed Date: 03/13/2018

snowpants were burned off of his body, his boots were missing, he was wearing one glove, his jacket was melted and solidified, and the front of his helmet was melted. Goss was conscious and was able to speak with U/O. Goss was worried about his friend Eckelstafer and kept asking for him. Goss kept stating that his hands were cold.

While U/O was speaking with Goss, there was an explosion in the fire. At this point U/O and Armstrong attempted to move Goss further away, but were only able to move him a couple of feet. Officer Mattson noticed a propane tank in the back of the burning wreckage and advised U/O of the danger. At this time Officer Weist arrived along with 2 Firefighters, all 4 were finally able to move Goss further into the woods and away from the burning vehicles.

Officer Mattson walked West down the trail and stopped all snowmobile traffic coming down the trail until the trail could be closed at 5 mile by Deputy Waiter.

Once Goss was moved further away he was assisted by fire Dept personnel. U/O assisted in attempting to put out the fire and it was at this time U/O was able to notice the outline of a snowmobile sticking out of the passenger side of the Gator, U/O was also able to noticed the outline of a human body half in and half out of the gator on top of the snowmobile. Numerous fire extinguishers were used and snow was thrown on the fire in an attempt to put out the flames.

Officers then began to speak with Armstrong and Eckelstafer in an attempt to figure out what had actually happened. While speaking with both Eckelstafer and Armstrong, U/O noticed that both subjects had burns to their hands and head from helping Goss.

Goss was loaded onto the rescue sled and Armstrong also rode on the four-wheeler and were transported out to the waiting ambulance on W 20th. Goss was transported to WMH, where he was later airlifted to Butterworth Hospital in Grand Rapids for his injuries. Armstrong was bandaged up and signed a refusal to be treated and went home. Eckelstafer was given a ride out to another ambulance and was transported to WMH where he was treated for his injuries.

The identity of the ski trail groomer driver was still unknown at this time to Officers at the scene.

Border Patrol Agent Hunt arrived on scene with his partner to assist Officers. Agent Hunt and partner rode down the ski trail and advised anyone on the trail that it would be closed for the day. Agent Hunt then placed police tape across the entrance in an attempt to keep anyone out for the day. Agent Hunt advised Officers that a DNR truck and trailer were parked in the parking lot of the Algonquin ski trail

Conservation Officer Ingerson and his partner Officer Calvin Smith arrived on scene and stated that the driver of the ski trail groomer would be a DNR employee. They advised Officers that the supervisors name is Corey Butcher and he would know who was suppose to be grooming the trail. Butcher was contacted and came to the scene and stated that the only person that would be grooming the trail would be Roy Pederson. Butcher stated that Pederson's personal vehicle is at the field office. Ingerson, Smith, and Butcher stated that they would confirm who the driver of the groomer was and contact an officer with that information. Ingerson and Smith stated that once confirmation was made they would make the death notification for Officers.

Officer Mattson made contact with Det. Mitchell of the Chippewa County sheriff Dept. and U/O was able to make contact with Sgt. DeShano. Both Det. Mitchell and Sgt. DeShano are Accident Investigators and both Officers conducted their investigation at the scene.

Reported By: _____ Reviewed By: O'DELL, DEREK Date Printed: 06/26/2018
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Det. LaCross also arrived at the scene at this time with his side by side. Det. LaCross took numerous photos of the scene. The grooming rake was removed from the gator and attached to Det. LaCross side by side. Det. LaCross then pulled the grooming rake back to the parking lot of the Algonquin ski trail, where it is normally kept during the winter.

Officer Weist was able to make contact with the Medical Examiner, who cleared the scene to allow the body to be removed from the area. Hovies Funeral home arrived and removed the body from the scene.

Superior Towing was contacted and responded to the scene and removed both the John Deere Gator and the snowmobile.

U/O contacted Martin Cottle from the Snowmobile Association and advised him of the accident and also advised him that the trail needed some maintenance before it could be reopened. A groomer responded and was able to perform some maintenance on the trail. Once this was done the trail was reopened.

Joe Eckelstafer's snowmobile was picked up by Chippewa Motors and taken back to their business.

DEATH NOTIFICATION:

Officer Weist was contacted by CO Ingerson and advised that they are positive that Roy Pederson was driving the ski trail groomer. CO Ingerson advised Officer Weist that they have attempted to contact his wife Diane Pederson, but she is not home and that she is sitting in her vehicle in the parking lot of Cascade Crossings waiting for Officers.

Officer Weist and U/O arrived at Cascade Crossing and made contact with Diane Pederson. Officers advised Diane of the accident and that her husband had passed away. Officers stood by with Diane while she contacted her son and daughter. Officers waited with Diane until both her son and daughter were advised of the accident.

COMPLAINANT: Joe Eckelstafer

INTERVIEW COMPLAINANT (Eckelstafer):

Eckelstafer states that he and Goss had just eaten breakfast in Brimley. Eckelstafer stated that neither of them had consumed any alcohol. Eckelstafer states that they both ate omelets and drank coffee. Eckelstafer states that Goss was in the lead and was ahead of him on the trail. Eckelstafer states that he was traveling approx. 40-45 mph and is not sure how fast Goss was traveling.

Eckelstafer states that he did not see the accident take place and while he was approaching the only thing that he saw was the fire. Eckelstafer states that he stopped and found Goss lying unconscious a couple of feet from the burning wreckage. Eckelstafer states that he tried to move Goss away from the fire, but could not move him.

Eckelstafer states that he called 911 and advised them of the accident and then drove to the end of the trail and flagged down a passing vehicle for help. Eckelstafer states that some guy rode back to the fire with him and helped him move Goss further away from the fire.

WITNESS: Adam Armstrong

INTERVIEW WITH WITNESS (Armstrong):

Reported By: _____ Reviewed By: O'DELL, DEREK Date Printed: 06/26/2018
 Page 6 of 11 Reviewed Date: 03/13/2018

Armstrong states that he was on his way home from Wal-Mart and he was flagged down by a guy on a snowmobile, who told him that somebody or someone was on fire on the trail. Armstrong states that he parked his vehicle and rode to the accident scene with the guy.

Armstrong states that when he arrived the machines were totally engulfed in flames. Armstrong states that the snowmobiler led him to his buddy who was laying maybe 5 feet from the fire. Armstrong states that the guy was lying face down in the snow, they were able to roll him over; and drag him another 5 feet further away from the fire.

Armstrong states that the guy was mumbling "get me out of here" and then he began asking what had happened.

Armstrong states that soon after this happened, police and fire Officers arrived.

ADDITIONAL INFORMATION:

Before Eckelstafer was transported to WMH, he requested that U/O contact his wife (Kim) and Goss' wife (Chrissy) and advise them of the accident. U/O was able to speak with Kim and advised her of the accident and she stated that she would contact Chrissy and advise her of the accident.

INJURIES TO THOSE INVOLVED:

Mark Goss - burns over 30% of his body, numerous broken bones, and some internal injuries - flown to Butterworth Hospital in Grand Rapids

Joe Eckelstafer - burns to hand and face - treated at WMH and released

Adam Armstrong - burns to hand and face - treated at WMH and released

PHOTOS:

Det. LaCross took 59 photos of the scene. Those photos were burned onto an evidence CD by Det. LaCross and placed in the CD locker by U/O

Sgt. DeShano took 46 photos of the scene. Those photos were burned onto an evidence CD by Det. LaCross and placed in the CD locker by U/O

All of the photos taken by Det. LaCross and Sgt. DeShano were burned onto an evidence CD by Det. LaCross and placed in the CD locker by U/O

VIDEO FOOTAGE:

Video footage from vehicle 2 & 10 was archived and saved along with video footage from Officer Mattson's and Officer Weist's body cameras.

ATTACHED PAPERWORK:

3 pages - Supplemental report from Chippewa County Sheriff's Office

1 page - John Deere Gator XUV 625i information from DNR

2 pages - LEIN printout of Mark Goss and snowmobile

1 page - property receipt signed by Kimberly Eckelstafer

1 page - Death report for Roy Lee Pederson

DISPOSITION: OPEN

SUPPLEMENT 2 (Supplement 2) Reporting Officer: **MATTSON, BRIAN** 02/27/18

ON 02-26-18 U/O ARRIVED ON SCENE FOR THE ACCIDENT ALONG WITH SGT. O'DELL. AFTER THE REMOVAL OF THE VEHICLES INVOLVED U/O COLLECTED THE FOLLOWING ITEMS BEFORE CLEARING THE SCENE.

ITEMS WORN BY GOSS:

- 1- BLACK BRP HELMET WHICH WAS PATRIALLY BURNED.
- 1- PAIR OF BLACK SOREL WINTER BOOTS SIZE 11
- 1- BLACK YAMAHA LEATHER GLOVE WHICH WAS PATRIALLY BURNED.

ITEMS LEFT AT THE SCENE BY ECKELSTAFER:

- 1- BLACK BRP HELMET
- 1- PAIR OF BLACK/RED FXR GLOVES.

U/O RETURNED TO THE SSMPD WHERE U/O PACKAGED AND TAGGED GOSS' HELMET AND BOOTS. U/O SEALED THE ITEMS INTO BROWN PAPER BAGS. U/O PLACED BIO-HAZARD LABELS ON THE BAG CONTAINING GOSS' HELMET DUE TO THE PRESENCE OF BLOOD INSIDE THE NOSE/ MOUTH PIECE INSIDE THE HELMET. U/O PLACED AN EVIDENCE TAG ON GOSS' BOOTS. THESE THREE ITEMS WERE THEN LOCKED INTO EVIDENCE LOCKER 17 AT THE SSMPD BY U/O.

U/O TAGGED ECKELSTAFERS HELMET AND GLOVES AND PLACED THEM INTO EVIDENCE LOCKER 18 AT THE SSMPD FOR SAFE KEEPING.

U/O PLACED U/O'S BODY CAMERA AND IN CAR CAMERA VIDEOS FOR THIS COMP. ONTO A SINGLE DVD-R. U/O LABELED THE DVD-R AS 763-18-189 AND THEN PLACED IT INTO THE CD EVIDENCE LOCKER AT THE SSMPD.

MATTSON 189

SUPPLEMENT 3 (Supplement 3) Reporting Officer: **MATTSON, BRIAN** 02/27/18

ON 02-27-18 JOSEPH ECKELSTAFER CAME TO THE DEPT ALONG WITH HIS WIFE KIMBERLY ECKELSTAFER AND ANOTHER FRIEND. JOSEPH WAS AT THE DEPT TO PICK UP HIS HELMET AND GLOVES WHICH U/O HAD COLLECTED AT THE SCENE FOR SAFE KEEPING. U/O WAS ABLE TO RETURN THE BLACK BRP HELMET AND A PAIR OF BLACK/RED FXR GLOVES TO JOE. DUE TO HIS HAND INJURY JOE WAS UNABLE TO SIGN THE PROPERTY RECEIPT SO HIS WIFE KIMBERLY SIGNED THE PROPERTY RECEIPT AND THE ITEMS WERE TURNED OVER TO THEM.

U/O ATTACHED THE PROPERTY RECEIPT TO THIS SUPP. FOR REVIEW.

MATTSON 189

SUPPLEMENT 4 (Supplement 4) Reporting Officer: **LACROSS, BRADLEY** 02/27/18

INFORMATION:

Reported By: _____ Reviewed By: O'DELL, DEREK Date Printed: 06/26/2018

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I, Det. LaCross, assisted with the snowmobile/utv accident. On the Snowmobile Trail located near W. 20th St. in Sault Ste Marie, Mi.

ACTIONS:

I assisted by transporting personnel to and from W. 20th and the scene, took photos of the scene, pulled the grooming drag back to the Ski Trail parking lot, and stood by until the snowmobile groomer came through and filled in the trail where the incident took place.

PHOTOS:

On 2/27/2018 I transferred all of the photos onto a disk. I made four disk for the complaint. Two of the disk that I made had all of the photos that were taken at the scene by Sgt. Deshano and myself I kept one of the disk for the file in the Det. Bureau and the other disk was turned over to Sgt. Odell. One of the disk was just photos that I took at the scene and the last disk was just the photos that Sgt Deshano took at the scene. Both of these last two disks were turned over to Sgt. Odell.

Det. LaCross

SUPPLEMENT 5 (Supplement 5) Reporting Officer: SWANSON, THOMAS 02/28/18

SUPPLEMENT 6 (Supplement 6) Reporting Officer: AUTORE, KRISTIN 03/01/18

FOUND WALLET:

COREY BUTCHER (DNR Park Supervisor) brought MARK GOSS' wallet to SSMPD. He stated he found it in a snowbank near the crash scene. U/O removed the contents from the wallet because everything was wet. U/O placed the wallet and contents in a brown paper bag, labeled it as Items 6 and 7, and placed it in Evidence Locker #1. U/O logged the wallet, ID, and credit cards as Item 6. U/O logged the \$501 US cash as Item 7.

KRISTIN AUTORE

SUPPLEMENT 7 (Supplement 7) Reporting Officer: O'DELL, DEREK 03/02/18

INFORMATION:

U/O was contacted by Christy Goss, who advised U/O of the insurance company and policy number for the snowmobile.

Goss was also advised that her husbands wallet was found.

Insurance:

Foremost Insurance
Policy # - 0076346515

SUPPLEMENT 8 (Supplement 8) Reporting Officer: DESHANO, FRANCIS 03/11/18

INFORMATION:

Reported By: _____ Reviewed By: O'DELL, DEREK Date Printed: 06/26/2018

Page 9 of 11 Reviewed Date: 03/13/2018

On 02/26/18 at approx. 1150hrs. I (Sgt. DeShano) responded to the snowmobile grade/Algonquin ski trail intersection approx. 1/2 a mile west of W. 20th St. to investigate a Fatal Snowmobile/ Ski groomer Accident.

SCENE OBSERVATIONS:

Upon arrival there had been heavy foot traffic around the accident scene by rescue personnel prior to my arrival. The burned out frame of the groomer was facing East on the grade with the remains of the snowmobile stuck to/ partially into the Passenger side of the frame. The deceased driver of the groomer was lying partially out of what had been the passenger side door of the groomer.

The vehicles had not been moved from their final resting point, however due to the heat intensity from the fire they were resting approximately 12 inches lower then at the time of the Accident. The area within an estimated 10 foot circumference of the final resting point was affected by the heat of the fire.

The front tracks of the groomer were facing forward inline with the frame. The remains of the snowmobile were stuck in the groomer at an approx. 45 degree angle with the front end penetrating into the groomer towards the rear/ mid. of where the passenger side door would have been.

There were no indications on the grade of emergency braking or evasive maneuvers from the snowmobile operator or the Groomer.

The angle at which the snowmobile was resting indicates one or the other may have attempted to turn in an attempt to avoid the collisions.

A small yaw mark was left on the grade by the tow behind track setter. The mark was very slight and had been affected by the heat.

Due to the extensive fire damage, lack of witnesses and no physical evidence left on the grade, it is unclear how the vehicles ended up at the final resting spot (eg, momentum, skid, own power or a combination of all). I do not feel it is possible to determine an accurate speed determination based on these facts. The amount of damage from the impact indicates a relatively high rate of speed at impact.

FIELD SKETCH: -

A preliminary field sketch was prepared on scene.

SCENE PHOTOGRAPHS:

I took 46 photos and prepared a corresponding Photo Log, Assisted by Deputy Mitchell from the Chippewa County Sheriff's Dept.

SCENE MEASUREMENTS:

The coordinate method was used for scene measurements, Assisted by Deputy Mitchell and Officer Mattson.

RP 1 - Ski trail gate post on the South west side of ski trail. (0 end)

RP 2- Ski trail gate post on the North East side of ski trail.

The tape was ran from the center of RP 1 to the Center of RP 2. This method was used due to no defined trail edge and no permanent objects to utilize the triangulation method of measurement.

Measurements were taken of the final positions of the groomer, groomer operator, Track setter, Snowmobile and the estimated POI.

STATE OF MICHIGAN
IN THE SUPREME COURT

MARK GOSS

Plaintiff-Appellee

v

MICHIGAN DEPARTMENT OF
NATURAL RESOURCES

Defendant-Appellant

Supreme Court No. 161952

Court of Appeals No. 349411

Court of Claims No. 19-000022-MZ

APPELLANT'S APPENDIX VOLUME II

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Counsel of Record

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Dated: October 25, 2021

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¹ A website printout that shows the updates to the 2015 Gator XUV 625i from previous models.

² An example of a track system that can be used on different Gator model.

³ A copy of the Chippewa County ORV Ordinance that Deputy Sheriff Robbins described in his affidavit.

⁴ A pre-March 28, 2019 printout from the Michigan Secretary of State's website regarding the registration of ORVs for on-road use. None of the items contained in these footnotes were made a part of the lower court record.

The Yield sign on the snowmobile grade was measured at 89ft from the POI.

VISIBILITY AT INTERSECTION:

The visibility on the Ski trail approaching the intersection is very poor in both direction. Both sides are heavily wooded. There is not a clear line of site down the grade in either direction until you are actually standing on the edge of the grade which puts you out past the Stop sign.

Visibility on the grade is very good looking down the grade in both directions. However, the heavily wooded area on the sides make the intersection very difficult to see. The yield sign on the grade was partially obscured and seems to be within close proximity to the intersection.

SNOWMOBILE OPERATOR STATEMENT:

The operator has not been interviewed due to the severity of his injuries. An interview will be conducted when medically permissible.

CONCLUSION:

The Groomer operator failed to yield the right of way upon entering the intersection. The combination of poor visibility and the speed of the grade traffic are also contributing factors to the accident.

DISPOSITION:

Open, tot Pros. for review.

SUPPLEMENT 9 (Supplement 9) Reporting Officer: O'DELL, DEREK 03/12/18
INFORMATION:

U/O made contact with Christy Goss, who stated that Mark has been moved to the burn unit. Christy states that Mark is heavily medicated and the Drs. plan on keeping him that way to assist with the pain.

U/O advised Christy that Mark's wallet and all of the belongings in the wallet would be mailed to her.

RETURN OF PROPERTY:

Items #6 & #7 were packaged up by U/O and mailed to the Goss family

The package was sent thru the USPS with an expected delivery date of 3-14-18 and the tracking number is 9505 5107 4622 8071 1373 60

DISPOSITION: OPEN

SUPPLEMENT 10 (Supplement 10) Reporting Officer: O'DELL, DEREK 04/04/18
INFORMATION:

On 3-25-18 U/O was notified by the Chippewa County Prosecutors Office that they were denying charges and closing the case. The reasons were because there was no careless operation by Goss, appears to be a tragic accident, and not enough facts to prove a criminal charge beyond a reasonable doubt

DISPOSITION: CLOSED

Sault Ste. Marie Police Department – (906) 632-5744
401 Hursley Street, Sault Ste. Marie, MI 49783

Incident No: 18-001895

Status: TOT PROSECUTOR

Date Reported: Sat 05/26/2018 19:21:00 Occurred Between: Sat 05/26/2018 19:21:00

SUPPLEMENT 5 (Supplement 5)

Reporting Officer: LARSEN, JOHN

06/21/18

On June 20, 2018 a warrant was entered into LEIN by the 91st District Court for the arrest of AMELIA HUNTER WRIGHT. Charge is CHILD ABUSE 3rd x2. BOND is set at \$5,000.00.

Disposition:

Open pending arrest and court action

Reported By: _____

Reviewed By: _____

Date Printed: 06/26/2018

Page 1 of 1

Authority: 1949 PA 300, Sec.237.622
 Compliance: Required MSP UD-10E
 Penalty: \$100 and/or 90 days (Rev 01/2018)

External # 182222 Crash ID

Page 1
 File Class : 03001

STATE OF MICHIGAN TRAFFIC CRASH REPORT

Incident # 763-18
 Reviewer Sgt. DEREK O'DELL (2180)

ORI: MI1773400 Department Name: Sault Ste. Marie Police Department

Crash Date: 02/26/2018	Crash Time: 10:36	No. of Units: 02	Crash Type: Anglo	Special Circumstances: <input type="checkbox"/> None <input type="checkbox"/> Fleeing Police <input type="checkbox"/> Hit and Run <input type="checkbox"/> Unknown <input type="checkbox"/> School Bus <input type="checkbox"/> Animal	Special Checks: <input type="checkbox"/> Fatal <input type="checkbox"/> Non-Traffic Area <input type="checkbox"/> ORV/Snowmobile
County: 17 - CHIPPEWA	Traffic Control: Stop Sign	Relation to Roadway: Off Roadway (Non-Traffic)	Weather: Clear	Area Non-Traffic Area	
City/Town: 66 - SAULT STE MARIE	Contributing Circumstances: 1st Unknown	2nd	Light: Daylight	Road Surface Condition: Snow	Total Lanes: 00
Work Zone (if applicable):	Workers Present: No	Activity:	Location:		

Prefix: SNOWMOBILE TRAIL #8	Primary Road Name:	Road Type:	Suffix: Divided Roadway
Distance/Direction: 0.46 Miles W	Trafficway: Non-Traffic		
Prefix: W	Intersecting Road Name: 20TH	Road Type: ST	Suffix: Divided Roadway

Unit Number: 01	Unit Known: Yes	State: MI	Driver License Number: [REDACTED]	Date of Birth (Age): 12/07/1952 (65)	License Type: <input checked="" type="checkbox"/> Operator <input type="checkbox"/> Chauffeur <input type="checkbox"/> Moped	Endorsements: <input type="checkbox"/> Cycle <input type="checkbox"/> Farm <input type="checkbox"/> Recreation	Sex: M	Total Occupants: 01	Hazardous Action: Unknown
Unit Type: MV	Driver Information: ROY LEE PEDERSON, 9350 N WHITEFISH PT RD, PARADISE MI 49341			Driver is Owner: No	Injury: K	Position: Front - Left	Restraint: Helmet Not Worn		
Driver Condition at Time of Crash: 1st Unknown		2nd		Driver Distracted By: Unknown	Ejected: No	Trapped: No	Airbag Deployed: Not Equipped		
Hospital: Morgue		Ambulance: None							
Alcohol Suspected: No	Contributing Factor: No	Alcohol Test Type: <input type="checkbox"/> Breath <input type="checkbox"/> Blood <input type="checkbox"/> Field <input type="checkbox"/> Urine <input type="checkbox"/> Refused <input type="checkbox"/> Not Offered			Alcohol Test Results: <input type="checkbox"/> Pending		Interlock Device: No		
Drug Suspected: No	Contributing Factor: No	Drug Test Type: <input type="checkbox"/> Blood <input type="checkbox"/> Field <input type="checkbox"/> Urine <input type="checkbox"/> Refused <input type="checkbox"/> Not Offered			Drug Test Results: <input type="checkbox"/> Pending		Citation Issued: <input type="checkbox"/> Hazardous <input type="checkbox"/> Other		
Vehicle Registration: SV1543	State: MI	Vehicle Description: 2015 JOHN DEERE	Year: 2015	Make: JOHN DEERE	Model: XUV 625I	Color: GRN			
VIN: 1M0625GSAFM102660	Vehicle Type: Off Road Vehicle (ATV Type)	Special Vehicles: None	Private Trailer Type:	Vehicle Defect:					
Insurance Company: SELF INSURED STATE MICHIGAN	Insurance Policy #:	Towed By: SUPERIOR TOWING		Towed To: SUPERIOR TOWING					
Location of Greatest Damage: 10	First Impact: 03	Extent of Damage (Power Unit and/or Trailers): Disabling Damage		Vehicle Direction: S	Vehicle Use: Other Government		Action Prior: Other		
Sequence of Events: First 17 - Motor Vehicle In Transport, Second, Third, Fourth									

PASSENGERS	Passenger Information	Date of Birth (Age)	Sex	Position	Restraint
		Injury	Ejected	Trapped	Airbag Deployed
	Hospital	Ambulance			
	Passenger Information	Date of Birth (Age)	Sex	Position	Restraint
	Injury	Ejected	Trapped	Airbag Deployed	
Hospital	Ambulance				
Passenger Information	Date of Birth (Age)	Sex	Position	Restraint	
	Injury	Ejected	Trapped	Airbag Deployed	
Hospital	Ambulance				

Carrier Information	USDOT	MC	MPSC
GVWR/GCWR: <input type="checkbox"/> 10,000 lbs. or Less <input type="checkbox"/> 10,001 - 25,000 lbs. <input type="checkbox"/> Greater than 25,000 lbs.	Vehicle Configuration	Cargo Body Type	Medical Card
Driver's CDL Type	Endorsements: <input type="checkbox"/> H <input type="checkbox"/> P <input type="checkbox"/> T <input type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> X	CDL Exempt: <input type="checkbox"/> Farm <input type="checkbox"/> Other	Hazardous Material: <input type="checkbox"/> Placard <input type="checkbox"/> Cargo Spill
ID #	Class #		

Owner Information: MI DEPARTMENT NATURAL RESOURCES, 9200 W 6 MILE RD, BRIMLEY MI 49715 (906)248-3422	Owner Information:
--	--------------------

Damaged Property	Public	Owner & Phone
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Unit Number 02	Unit Known Yes	State MI	Driver License Number [REDACTED]	Date of Birth (Age) 09/06/1959 (58)	License Type Operator Chaulfer Moped	Endorsements Cycles Farm Recreation	Sex M	Total Occupants 01	Hazardous Action Unknown
Unit Type MV	Driver Information MARK SCOTT GOSS 9319 FULTON ST E ADA MI 49301			Driver is Owner Yes	Injury A	Position Driver	Restraint Helmet Worn		
Driver Condition at Time of Crash 1st Unknown 2nd			Driver Distracted By Unknown			Ejected No	Trapped No	Airbag Deployed Not Equipped	
Hospital Chippewa County War Memorial Hospital					Ambulance Sault Ste Marie Fire Dept				
Alcohol Suspected No	Contributing Factor No	Alcohol Test Type Breath Blood Field OPBT Urine Refused Not Offered			Alcohol Test Results Pending Test Results:		Interlock Device No		
Drug Suspected No	Contributing Factor No	Drug Test Type Blood Field Urine Refused Not Offered			Drug Test Results Pending Test Results:		Citation Issued Hazardous Other		
Vehicle Registration NU0526	State MI	Vehicle Description	Year 2014	Make YAMAHA	Model APEX	Color RED			
VIN JYEBJC005EA003649	Vehicle Type Snowmobile	Special Vehicles None	Private Trailer Type	Vehicle Defect					
Insurance Company			Insurance Policy #	Towed By SUPERIOR TOWING			Towed To SUPERIOR TOWING		
Location of Greatest Damage 10	First Impact 08	Extent of Damage (Power Unit and/or Trailers) Disabling Damage		Vehicle Direction E	Vehicle Use Private	Action Prior Other			
Sequence of Events First: Motor Vehicle In Transport Second: Third: Fourth:									

PASSENGERS	Passenger Information			Date of Birth (Age)	Sex	Position	Restraint
				Injury	Ejected	Trapped	Airbag Deployed
	Hospital			Ambulance			
	Passenger Information			Date of Birth (Age)	Sex	Position	Restraint
			Injury	Ejected	Trapped	Airbag Deployed	
Hospital			Ambulance				
Passenger Information			Date of Birth (Age)	Sex	Position	Restraint	
			Injury	Ejected	Trapped	Airbag Deployed	
Hospital			Ambulance				

Carrier Information			USDOT	MC	MPSC
			Driver's CDL Type	Endorsements OH OP OT ON OS DX	CDL Exempt Farm Other
GWR/GCWR 10,000 lbs or Less 10,001 - 26,000 lbs Greater than 26,000 lbs	Vehicle Configuration		Cargo Body Type	Medical Card	Hazardous Material Placard Cargo Spill
ID #	Class #				

Owner Information	Owner Information

Witness Information	Witness Information

Investigated at Scene Yes	Reported Date (Time) 02/27/2018 (10:36)	1st Investigator Name (Badge) Sgt. DEREK O'DELL (2180)	2nd Investigator Name (Badge)	Photos Yes
------------------------------	--	---	-------------------------------	---------------

<p>Narrative</p> <p>Snowmobile traveling E bound on trail 8. ski trail groomer traveling S bound on ski trail.</p> <p>Groomer pulled in front of snowmobile</p>	<p>Diagram</p> <p>Page Reconstructed. MC Drawn to Scale</p>
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CISH - CHIPPEWA COUNTY
SHERIFF'S OFFICE
Case Report



Case No. 1811700208
Case Status Not a Crime/Other Service
Report Date/Time: 2/26/2018 11:00:00 AM
Reporting Officer: Mitchell, Douglas

FILE CLASS/OFFENSE:
99008 - Miscellaneous - General Assistance

Assist Offense/s:

NATURE OF INCIDENT:
Fatal Crash/Assist SPD/Mitchell/Wiater

OCCURRED ON: 2/26/2018 11:00:00 AM
(and Between)

VENUE: Trail #8 20th Street Sault Ste. Marie, MI 49783
CITY/TOWNSHIP: 66 - Sault Ste. Marie, Chippewa
INFORMATION: Deputy Wiater and U/O were requested to assist the Sault Ste. Marie City PD with a Fatal Crash, snowmobile vs. John Deere Gator.

RECEIVED by MSC 10/25/2021 4:18:09 PM

SSMPD

CISH - CHIPPEWA COUNTY
SHERIFF'S OFFICE
Case Report



Case No. 1811700208
Report Date/Time: 2/26/2018 11:00:00 AM
Reporting Officer: Mitchell, Douglas

NARRATIVE:

CISH-822 - Mitchell, Douglas
2/27/2018 12:00:00 AM
Accident Investigation Assist Sault Ste. Marie PD
Fatal Crash

Information:

Deputy Winter and U/O were requested to assist the Sault Ste. Marie City PD with a Fatal Crash, snowmobile vs. John Deere Gator.

Date and Time:

Monday
February 26th, 2018
Approximately 1100 hours

Venue:

Trail #8 Near 20th Street
At the Algonquin Cross Country Ski Trail
Sault Ste. Marie
Chippewa County
Michigan

Dispatch Information:

U/O was monitoring Central Dispatch radio traffic when Sault Ste. Marie City PD was dispatched to a snowmobile vs. John Deere Gator crash at the venue. Dispatch further advised both machines were fully engulfed.

Request for Assistance:

Sault Ste. Marie City PD requested assistance with snowmobile traffic control south of the crash site at West 5 Mile Road and Trail #8, in which Deputy Winter provided until the Trail was opened back up. U/O was requested conduct Accident Investigation.

Arrival on Scene:

U/O arrived on scene, 02/26/18 at approximately 1200 hours. U/O was escorted into the scene by Sault Fire and contacted SPD Sgt. O'Dell. U/O was advised that Sault Fire Chief Scott Labonte along with SPD Sgt. DeShano were also responded for Accident Investigation.

Observations on Scene:

U/O then observed the crash site. U/O observed the badly burned remains of what appeared to be a side by side type vehicle with tracks and what appeared to be the badly burned remains of a snowmobile.

U/O observed the side by side was pulling a cross country ski trail groomer that left yaw marks on the trail near the point of impact. U/O also observed the badly burned remains of a human skull inside the side by side.

U/O observed there to be a stop sign at the cross country ski path and a yield sign on the snowmobile trail. U/O would also note the line of site from the ski path was poor in a heavily wooded area. The yield sign on the snowmobile trail was also partially obstructed by trees.

Accident Investigation:

U/O assisted Sgt. DeShano with the Accident Investigation at the crash site, see his report for further details.

Disposition:

Closed, TOT Sault Ste. Marie City PD

Det. Mitchell

RECEIVED by MSC 10/25/2021 4:18:09 PM

SAULT STE. MARIE POLICE DEPARTMENT
PROPERTY RECEIPT

Item	Description of Property	Estimated Value
1	Blk BRP Helmet	—
1	Pair Red/Blk FFR Gloves	—

Person Receiving Property	
Name:	Kimberly J. Eckelstater
Phone#:	cell 745-2770
Signature:	Kimberly J. Eckelstater

Released by:	
Officer:	Watson
Badge#:	189
Date:	2-27-18
Cptl#:	763-18

RECEIVED by MSC 10/25/2021 4:18:09 PM

SAULT STE. MARIE POLICE DEPARTMENT

DEATH REPORT

DATE: 2-26-18

COMPLAINT NO. 763-18

Roy Lee Pederson 9350 N. Whitefish Rd 2-26-18
 DECEASED ADDRESS DATE OF DEATH
mv Accident/Fire Trail 8/W 20th St. Dr. Garlinghouse
 CAUSE OF DEATH LOCATION ACTING CORONER
12-07-1957 Diane Pederson 9350 N. Whitefish Rd
 DATE OF BIRTH NAME OF NEAREST RELATIVE ADDRESS

ATTENDING PHYSICIAN ADDRESS HOW LONG IN ATTENDANCE

POST MORTEM WHERE HELD BY WHOM

1036 hrs
TIME DEATH OCCURRED TIME CAUSE IF DEATH OCCURRED

1036 hrs
TIME OFFICERS WERE CALLED NAME OF OFFICERS PRESENT

Joseph Eckelstafer 10710 7-mile Rd NE 616-901-6217
PERSON WHO CALLED DEPT. IF KNOWN ADDRESS TELEPHONE NO.

Houles Funeral Home 558 Bingham Ave SSM NE
UNDERTAKER CALLED ADDRESS

WITNESSES ADDRESS

See Comp 763-18 for witness info + Veh. info

IF AUTOMOBILE ACCIDENT NAME OF DRIVER CAUSING DEATH ADDRESS

OWNER OF CAR ADDRESS KIND OF CAR

DRIVER EMPLOYED WHERE OWNERS BUSINESS

BUSINESS ADDRESS OF DRIVER BUSINESS ADDRESS OF OWNER

LICENSE NUMBER OF CAR MOTOR NUMBER SERIAL NUMBER

Mattson 187
NAME OF OFFICER MAKING REPORT

DRIVER/VEHICLE INFORMATION

Service

Authorization #

Special Instructions:

Scheduled

W777 1592482

• For Collision or Vehicle Damage, please call 1-800-937-8149

Unscheduled

Under: \$75.00
Over: \$75.00

W077 1513435

• For Fuel card Inquiries, please call 1-800-937-8149

Call MAP:

• For emergency service, please call 1-800-937-8149

Cars: (800) 937-8149

• Rules and regulations governing operation of state vehicle, refer to State Vehicle Policy and Practice Guide

Trucks: (800) 937-8149

• All other questions, Inquires regarding procedures in this guide, call VTS AT 517-322-5000

Make:

Year/Model:

John Deere

2015 Gator XUV 625i

Vehicle No:

VIN:

S6698

1M0625GSAFM102660

PLATE # SV 1543

Fleet Name:

Fleet Number:

State Of Michigan

3MS1

Self Insured

SAULT SAINTE MARIE
161 RIDGE ST
SAULT SAINTE MARIE
MI
49783-9998
2584800177
03/12/2018 (800)275-8777 12:28 PM

Product Sale Final
Description Qty Price

PM 2-Day 1 \$7.20
Sa Flat Rate
Box

(Domestic)
(ADA, MI 49301)
(Flat Rate)
(Expected Delivery Date)
(Wednesday 03/14/2018)
(USPS Tracking #)
(9505 5107 4522 8071 1373 60)

Insurance 1 \$0.00
(Up to \$50.00 included)

Total \$7.20

Cash \$20.00
Change (\$12.80)

Includes up to \$50 Insurance

Text your tracking number to 28777
(2USPS) to get the latest status.
Standard Message and Data rates may
apply. You may also visit USPS.com
USPS Tracking or call 1-800-222-1811.

Save this receipt as evidence of
insurance. For information on filing
an insurance claim go to
<https://www.usps.com/help/claims.htm>.

All sales final on stamps and postage
Refunds for guaranteed services only
Thank you for your business

HELP US SERVE YOU BETTER

TELL US ABOUT YOUR RECENT
POSTAL EXPERIENCE

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<https://postalexperience.com/Pos>

840-5493-0636-002-00022-09440-02

or scan this code with
your mobile device:



or call 1-800-410-7420.

YOUR OPINION COUNTS

Sault Ste. Marie Police Department -- (906) 632-5744
Officer Daily Report

Daily: **18-000393**
 Status: **APPROVED**

Date: **02/26/2018** Shift: **DAYSHIFT** Assignment: **Patrol Assignment** Platoon: **1**
 Officer 1: **MATTSON,BRIAN** Start: **07:00** Stop: **19:00** Total Time: **12:00** OT:

Daily Report Summary

Action Category	Count	Time Category	Hours
		Meeting	00:40
		Reports Written	03:31
		Vehicle Patrol	07:49
		General Tasks	00:00
			<u>12:00</u>

Disp	Start	Scene Clear	Location/Comments	Reference
	07:00	00:00	07:40 Shift/Dept. Meeting: dept	
	07:40	00:00	08:06 Reports Written: dept	
	08:06	00:00	09:50 Vehicle Patrol: CITY	
	09:50	00:00	10:10 CAD Dispatched: DEPT DNA GROVE	
	10:10	00:00	10:36 Reports Written: DEPT	
	10:36	00:00	15:39 CAD Dispatched: trail 8 / w. 20th st. snowmobile pi/fatal	
	15:39	00:00	15:57 Reports Written: dept	
	15:57	00:00	16:11 CAD Dispatched: budget host driving comp.	
	16:11	00:00	16:28 CAD Dispatched: 900 w. 25th susp. sit.	
	16:28	00:00	17:53 Reports Written: dept	
	17:53	00:00	18:04 CAD Dispatched: parking garage susp sit	
	18:04	00:00	19:00 Reports Written: dept	

Equipment	Fuel	Check	Return	Back			Miles	Total Miles	
				Check	Inspected	Cleaned			
Vehicle: Ford Explorer # 2	Qty:	0.00	N	Y	Start:	N	N	N	0
	Cost:	0.00			End:	N	N	N	0

Sault Ste. Marie Police Department – (906) 632-5744
Officer Daily Report

Daily: **18-000395**
 Status: **APPROVED**

Date: **02/26/2018** Shift: **DAYSHIFT** Assignment: **Patrol Assignment** Platoon: **1**
 Officer 1: **O'DELL,DEREK** Start: **07:00** Stop: **19:00** Total Time: **12:00** OT:

Daily Report Summary

Action Category	Count	Time Category	Hours
		Meeting	00:10
		Supervisory Duties	01:00
		Court/Justice Service	00:20
		Vehicle Patrol	05:05
		10-40	00:30
		General Tasks	04:55
			12:00

Disp	Start	Scene	Clear	Location/Comments	Reference
	07:00	07:00	07:10	Shift/Dept. Meeting: Department Briefing with nightshift	
	07:45	07:45	08:45	Supervisory Duties: Department review reports/log miles on vehicles	
	10:00	10:00	10:20	Court Time: Pros. Office/court swear in warrants/pick up subpoenas	
	10:40	10:40	15:00	CAD Dispatched: (Primary) Snowmobile trail 3/4 mile from 20th Snowmobile/groomer PI/fully engulfed/1 fatal/4 actual injuries/superior towing	
	15:05	15:05	15:30	Contact During Patrol: (Backup) Cascade Crossing parking lot Death notification to family	
	15:35	15:35	15:40	Contact During Patrol: (Primary) EUPTA office notification to employee for family member	
	16:15	16:15	16:45	10-40: (Primary) lunch	
	17:00	17:00	17:15	Contact During Patrol: (Primary) WMH Contact with rider/witness/snowmobile rider	

Equipment	Qty:	Fuel	Check	Return	Back			Miles	Total Miles
					Check	Inspected	Cleaned		
Vehicle: Ford Explorer #4		0.00	N	N	Start:	N	N	N	0
	Cost:	0.00			End:	N	N	N	0
TASER X26P CEW	1		N	N					
SHOTGUN	SHOTGUN		N	N					
RIFLE	RIFLE		N	N					
RADAR	CAR 4		N	N					
PBT	CAR 4		N	N					
AED	CAR 4		N	N					

Sault Ste. Marie Police Department – (906) 632-5744
Officer Daily Report

Daily: **18-000394**

Status: **APPROVED**

Date: 02/26/2018 Shift: DAYSHIFT Assignment: Patrol Assignment Platoon: 1
 Officer 1: WEIST,JOHN Start: 07:00 Stop: 19:00 Total Time: 12:00 OT:

Daily Report Summary

Action Category	Count	Time Category	Hours
		Meeting	01:30
		General Tasks	10:30
			12:00

Disp	Start	Scene	Clear	Location/Comments	Reference
	07:00	07:00	08:30	Shift/Dept. Meeting:	

Equipment	Fuel	Check	Return	Back			Miles	Total Miles
				Check	Inspected	Cleaned		

EXHIBIT 5





EXHIBIT 6

STATE OF MICHIGAN
IN THE COURT OF CLAIMS

MARK GOSS

Plaintiffs,

vs

Case No. 19-000022-MZ

Hon. Stephen L. Borrello

MICHIGAN DEPARTMENT
OF NATURAL RESOURCES,

Defendant.

JOSEPH SUKUP (P39898)

JAMES T. FARRELL (P35400)

JEREMY R TIEDT (P79856)
VEN R. JOHNSON (P39219)
JOHNSON LAW, PLC
Attorneys for Plaintiffs
99 Monroe Avenue N.W., Suite 975
Grand Rapids, MI 49503
(616) 235-9400 / (616) 235-9444 (fax)
jtiedt@venjohnsonlaw.com

Assistant Attorney General
Michigan Dept. of Attorney General
Attorney for Defendant
Complex Litigation Division
P.O. Box 30736
Lansing, MI 48909
(517) 335-3055
farrellj@michigan.gov

AFFIDAVIT FOR TIMOTHY P. ROBBINS

Timothy P. Robbins, being duly sworn, states as follows:

1. I am a traffic crash reconstruction expert. My CV is attached.
2. I have over 1000 hours of crash reconstruction and related EMS training.
3. I am a licensed paramedic and have been trained in EMS since 1990.
4. I have been a police officer since 1995,
5. I was a traffic crash reconstruction expert with the Michigan State Police from 2002 to February 2012.
6. I am currently a Deputy Sheriff with Arenac County Sheriff's Office.
7. I have owned and operated M-CRASH GROUP LLC, a traffic crash reconstruction company, since 2003.

8. I have testified in trial well over 200 times, in at least 20 Michigan Counties.
9. I have been qualified numerous times as a traffic crash reconstruction expert testifying in multiple facets, including but not limited to police procedure, Michigan Vehicle Code, and ORV/snowmobile crashes.
10. I have conducted situational reconstructions in well over 1000 crashes throughout Michigan, Wisconsin, Ohio, Illinois, Florida, New York and Indiana.
11. I am an instructor of police traffic crash investigation and facets of traffic crash reconstruction and have conducted training throughout the country.
12. I have given multiple presentations/demonstrations in the realm of traffic crash reconstruction including, but not limited to, the Oakland County Bar Association, Delta Community College, WREX 2016, several driver education classes, the Michigan Medical Association of Medical Examiners, and to and for the Michigan State Police.
13. I have reviewed data related to this crash including, but not limited to, the police investigation, photographs, videos, and the Michigan Vehicle Code.
14. After reviewing these documents, it is my opinion that:
 - a. Roy Lee Pederson failed to yield to Mark Scott Goss.
 - b. That the vehicle Mr. Pederson was operating is a Motor Vehicle as defined.
15. That the Michigan Vehicle Code states the following:

257.33 "Motor vehicle" defined.

"Motor vehicle" means every vehicle that is self-propelled, but for purposes of chapter 4 of this act motor vehicle does not include industrial equipment such as a forklift, a front-end loader, or other construction equipment that is not subject to registration under this act. Motor vehicle does not include an electric patrol vehicle being operated in compliance with the electric patrol vehicle act, 1997 PA 55, MCL 257.1571 to 257.1577. Motor vehicle does not include an electric personal assistive mobility device. Motor vehicle does not include an electric carriage. Motor vehicle does not include a commercial quadricycle. Motor vehicle does not include an electric bicycle. Motor vehicle does not include an electric skateboard.

257.20 "Highway or street" defined.

"Highway or street" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. History: 1949, Act 300, Eff. Sept. 23, 1949

257.55 "Roadway" defined.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel. In the event a highway includes 2 or more separate roadways, the term "roadway", as used herein, shall refer to any such roadway separately, but not to all such roadways collectively. History: 1949, Act 300, Eff. Sept. 23, 1949

257.79 "Vehicle" defined.

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices exclusively moved by human power or used exclusively upon stationary rails or tracks and except, only for the purpose of titling and registration under this act, a mobile home as defined in section 2 of the mobile home commission act, Act No. 96 of the Public Acts of 1987, being section 125.2302 of the Michigan Compiled Laws. History: 1949, Act 300, Eff. Sept. 23, 1949 ;-- Am. 1976, Act 439, Imd. Eff. Jan. 13, 1977 ;-- Am. 1978, Act 568, Eff. Jan. 6, 1979 ;-- Am. 1992, Act 134, Eff. Oct. 1, 1992

16. The involved DNR vehicle exhibits characteristics of motor vehicle's driven on the roadways which may include, but is not limited to
- a. A windshield
 - b. Seat belts
 - c. A roof
 - d. A motor
 - e. A steering wheel
 - f. Mirrors
 - g. Transmission and gear shift mechanism, including reverse
 - h. Steering wheel
 - i. Headlights
 - j. Brake lights
 - k. Tail lights

 - l. Four tires and/or tracks
 - m. Doors
 - n. Side windows
 - o. Bumpers
 - p. Brakes
 - q. Accelerator pedal
 - r. Seating for 2 persons
 - s. Speedometer
 - t. Tachometer
 - u. Trip odometer
 - v. Temperature warning
 - w. Fuel gage
 - x. Trailer hitch
 - y. Power outlet
 - z. Cup holder
17. Changing the tires for tracks does not change the motor vehicle characteristics of the ORV but, instead, it simply allows it to traverse snow better.
18. It is not uncommon for ORV's or tracked vehicle's to be driven on public roadway, subject to restrictions, and the right-of-way of roadways as a normal method of conveyance, especially in Norther Michigan and the Upper Peninsula.

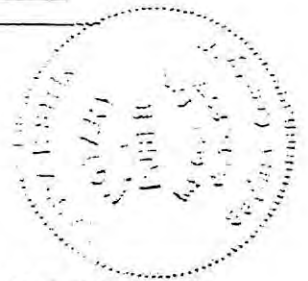
- 19. Arenac County, where I am a deputy sheriff, allows ORV's to operate on the roadway, under certain conditions, via ordinance that complies with Michigan Law
- 20. Chippewa County, the venue of this crash, has a similar ORV ordinance that allows ORV's to operate on county roadways, under certain conditions, via an ordinance that complies with Michigan Law.
- 21. It is not uncommon for ORV trails to be used for vehicular traffic in the summer months, including cars and trucks.
- 22. It is not uncommon for ORV's to operate on trails frequented and used by snowmobiles.
- 23. Snowmobiles are defined as a motor driven vehicle by Michigan Law.
- 24. My conclusions are based on my extensive training and experience in law enforcement and traffic crash reconstruction.
- 25. My conclusions are made using appropriate reconstruction training and education.
- 26. My conclusions are based on sound reconstruction principles and practices and facets thereof.
- 27. These conclusions are accurate within a reasonable degree of accident reconstruction certainty.
- 28. My crash reconstruction is ongoing.

3/7/19

Date

[Handwritten Signature]

Timothy P. Robbins
4106 Wilder Road, #290
Bay City, Michigan, 48706-2239



Subscribed and sworn to before me,
this 7th day of March, 20 19
[Handwritten Signature]

LAURA R STEIN
Notary Public - State of Michigan
County of Saginaw
My Commission Expires Jul 13, 2024
Acting in the County of Bay

EXHIBIT 7

[ATV.com](#) / [Specs](#) / [2015](#) / [John Deere](#) / [Utility UTV](#) / [Gator™ XUV 4x4 625i](#)

2015 John Deere Gator™ XUV 4x4 625i



[View all &](#)

106

of 139
[2015 Utility UTV](#)



Overall	★★★★★
Performance	★★★★★
Quality & Reliability	★★★★★
Ride & Comfort	★★★★★
Value	★★★★★

[Specs](#) / [Build Your Own](#) / [Compare](#) / [Photos & Video](#) / [Reviews](#)

2015 John Deere Gator™ XUV 4x4 625i Links

- [2015 John Deere Gator™ XUV 4x4 625i Specs](#)
- [2015 John Deere Gator™ XUV 4x4 625i Reviews](#)
- [2015 John Deere Gator™ XUV 4x4 625i Dealers](#)
- [2015 John Deere Gator™ XUV 4x4 625i Photos](#)
- [2015 John Deere Gator™ XUV 4x4 625i Videos](#)

2015 John Deere Gator™ XUV 4x4 625i pictures, prices, information, and specifications. Below is the information on the 2015 John Deere Gator™ XUV 4x4 625i. If you would like to get a quote on a new 2015 John Deere Gator™ XUV 4x4 625i use our [Build Your Own](#) tool, or [Compare](#) this UTV to other Utility UTVs.

2015 John Deere Gator™ XUV 4x4 625i Specifications

IDENTIFICATION

MODEL TYPE	Utility UTV
BASE MSRP(US)	\$10,859.00
DEALERS	John Deere Dealers
WARRANTY	12

INSURANCE

ENGINE:

ENGINE TYPE	V Twin
CYLINDERS	2
ENGINE STROKE	4-Stroke
HORSEPOWER (BHP/KW)	23 / 17.2
TORQUE (FT LBS/NM)	34.6 / 46.9
TORQUE RPM	2100
COOLING	Liquid
VALVE CONFIGURATION	OHV
DISPLACEMENT (CC/CI)	617 / 37.7
STARTER	Electric
FUEL REQUIREMENTS	Regular
FUEL TYPE	Gas
FUEL INJECTOR	Yes
CARBURETOR	No
CARBURETION TYPE	Fuel Injected

TRANSMISSION:

TRANSMISSION TYPE	Continuously Variable (CVT)
OVERDRIVE	No
PRIMARY DRIVE (FRONT WHEEL)	Shaft
PRIMARY DRIVE (ENGINE / TRANSMISSION)	Belt
REVERSE	Yes
HI / LOW RANGE	Yes
HI GEAR RATIO	42.1
LOW GEAR RATIO	86.8

WHEELS & TIRES:

WHEELS COMPOSITION	Steel
FRONT TIRE DIAMETER (IN)	25
REAR TIRE DIAMETER (IN)	25
TIRE BRAND	Terrahawk

3/11/2019	2015 John Deere Gator™ XUV 4x4 625i Reviews, Prices, and Specs
FRONT TIRE WIDTH	9
FRONT WHEEL DIAMETER	12
REAR TIRE WIDTH	11
REAR WHEEL DIAMETER	12
FRONT TIRE (FULL SPEC)	Terrahawk 25 x 9-12
REAR TIRE (FULL SPEC)	Terrahawk 25 x 11-12
TREAD TYPE	All Terrain
BRAKES:	
FRONT BRAKE TYPE	Hydraulic Disc
REAR BRAKE TYPE	Hydraulic Disc
ENGINE BRAKING	Standard
SUSPENSION:	
FRONT SUSPENSION TYPE	Independent Double A-Arm
FRONT TRAVEL (IN/MM)	8 / 203
FRONT ADJUSTABLE FORK PRE-LOAD	No
FRONT STABILIZER BAR	Yes
REAR SUSPENSION TYPE	Independent Double A-Arm
REAR TRAVEL (IN/MM)	9 / 229
NUMBER REAR SHOCK ABSORBERS	2
REAR STABILIZER BAR	Yes
AIR ADJUSTABLE	No
STEERING:	
STEERING TYPE	Rack & Pinion
STEERING CONTROL	Steering Wheel
TECHNICAL SPECIFICATIONS:	
LENGTH (FT)	9.92
WIDTH (IN/MM)	62 / 1571
HEIGHT (IN/MM)	75 / 1903
WHEELBASE (IN/MM)	79 / 2007
TURNING RADIUS (FT)	12.4

3/11/2019 2015 John Deere Gator™ XUV 4x4 625i Reviews, Prices, and Specs
11 / 280

GROUND CLEARANCE (IN/MM)	
PLATFORM HEIGHT (IN/MM)	12.3 / 311
FRONT TREAD WIDTH (IN/MM)	51.4 / 1305
REAR TREAD WIDTH (IN/MM)	51.4 / 1305
LENGTH (FT/FT)	9
LENGTH (FT/IN)	11
DRY WEIGHT (LBS/KG)	1440 / 653
PAYLOAD CAPACITY (LBS/KGS)	1400 / 635
TOWING CAPACITY (LBS/KGS)	1500 / 680
FUEL CAPACITY (GAL/L)	7.3 / 27.6
PERFORMANCE	Standard

SEATS:

SEAT TYPE	Bucket
SEAT MATERIAL	Vinyl
FOLDING	Yes
HEADREST	No
NUMBER OF SEATS	2
NUMBER OF ROWS	1
GRAB RAIL OR STRAP	Standard

EXTERIOR:

FRAME	Steel
BODY MATERIAL	Plastic
CHAIN GUARD	No
BRUSH GUARD	Yes
LIGHT GUARD	Yes
FRONT MUD GUARDS	Yes
REAR MUD GUARDS	Yes
CV BOOT COVER	Yes
FRONT BUMPER	Standard
REAR BUMPER	Standard

3/11/2019 2015 John Deere Gator™ XUV 4x4 625i Reviews, Prices, and Specs
FRONT FENDER FLAIRS Standard

REAR FENDER FLAIRS Standard

SWING ARM SKID PLATE No

FULL LENGTH SKID PLATE Yes

DRIVE SHAFT SKID PLATE Yes

CAB CAGE Standard

CAB ROLLBAR Standard

CAB / BED DIVIDER Standard

INSTRUMENTATION:

DIGITAL INSTRUMENTATION Standard

TACHOMETER Standard

TRIP ODOMETER Standard

SPEEDOMETER Standard

HOOR METER Standard

TEMPERATURE WARNING TYPE Light

FUEL LEVEL WARNING TYPE Gauge

PRICING:

WARRANTY (MONTHS/CONDITION/HOURS) 12 / Limited / 1000

BATTERY WARRANTY (MONTHS) 0

IDENTIFICATION:

GENERIC TYPE (PRIMARY) Utility

MANUFACTURER COUNTRY USA

MANUFACTURER RECOMMEND MINIMUM AGE 16

PARENT COMPANY John Deere

DISPLAY NAME Gator™ XUV625i

TOWING & HAULING:

SIZE (IN/CM) 2 / 5.1

REAR HITCH TYPE Receiver

TOW HOOK Standard

FRONT HITCH TYPE Receiver

DRIVE LINE:

DRIVELINE BRAND	On-Demand™
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DRIVELINE TYPE	4X4
----------------	-----

NUMBER OF DRIVELINE MODES	2
---------------------------	---

REAR UNLOCKING DIFFERENTIAL	Yes
-----------------------------	-----

REAR SOLID AXLE	No
-----------------	----

DIFFERENTIAL LOCK LOCATION	Front / Rear
----------------------------	--------------

CONVENIENCE:

POWER OUTLET	Standard
--------------	----------

SEAT BELTS	Standard
------------	----------

STORAGE:

NUMBER OF CUPHOLDERS	2
----------------------	---

BED LENGTH (IN/MM)	45 / 1143
--------------------	-----------

BED HEIGHT (IN/MM)	12 / 304
--------------------	----------

BED WIDTH (IN/MM)	52 / 1320
-------------------	-----------

BED CAPACITY (LBS./KGS.)	1000 / 454
--------------------------	------------

CARGO BED TILT	Yes
----------------	-----

CARGO BED MATERIAL	Steel
--------------------	-------

BED VOLUME (FT3/M3)	16.4 / 0.46
---------------------	-------------

INTEGRAL TIE-DOWN HOOKS	Yes
-------------------------	-----

GLOVE BOX / DASH STORAGE	Standard
--------------------------	----------

LIGHTS:

FOG LIGHTS	Standard
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HALOGEN HEADLIGHT (S)	Standard
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HEADLIGHT (S)	Standard
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TYPE	Halogen
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PAINT & FINISH:

METALLIC	No
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Standard Specs

STATE OF MICHIGAN
COURT OF CLAIMS

Attorney General's Office

MAY 30 2019

Complex Litigation
Division

MARK GOSS,

Plaintiff,

v

MICHIGAN DEPARTMENT OF NATURAL
RESOURCES,

Defendant.

OPINION AND ORDER

Case No. 19-000022-MZ

Hon. Michael J. Kelly

Pending before the Court is defendant's motion for summary disposition filed pursuant to MCR 2.116(C)(7). Because the motor-vehicle exception to governmental immunity applies, see MCL 691.1405, the motion is DENIED.

I. BACKGROUND

This case arises out of a collision between a snowmobile owned and operated by plaintiff and a 2015 John Deere Gator Utility Task Vehicle (UTV) or Crossover Utility Vehicle (XUV) operated by Roy Pederson, a Michigan Department of Natural Resources (DNR) employee. According to the allegations in plaintiff's complaint, plaintiff was driving a snowmobile and was traveling eastbound on what is known as "Snowmobile Trail 8" in Sault Sainte Marie. At the same time, Pederson was traveling southbound on the Algonquin Cross Country Ski Trail (Ski Trail) near where the Ski Trail intersects with Snowmobile Trail 8. Plaintiff's complaint alleges that the intersection of Snowmobile Trail 8 and the Ski Trail is marked with a two-way stop sign

instructing Ski Trail traffic to stop for traffic on Snowmobile Trail 8. Plaintiff alleges that Pederson failed to adhere to the stop sign, causing a fiery crash between the Gator and Pederson's snowmobile.

The collision between the Gator and the snowmobile resulted in fatal injuries and burns to Pederson. Plaintiff's complaint alleges that he suffered extensive burns and injuries as well, including burns to over 30% of his body, several broken bones, brain injury, and the amputation of several digits. Plaintiff filed a single-count complaint in this Court alleging that Pederson operated the Gator in a negligent or grossly negligent manner and that such operation caused plaintiff's injuries. Plaintiff alleges that defendant is not entitled to immunity because MCL 691.1405, commonly referred to as the "motor-vehicle exception," applies and subjects the state to liability in this instance. As will be discussed in detail *infra*, plaintiff contends that the Gator was a "motor vehicle" as that term is used in MCL 691.1405.

In lieu of filing an answer, defendant has moved for summary disposition under MCR 2.116(C)(7), arguing that the Gator is not, as the term is understood in the context of MCL 691.1405, a "motor vehicle." Defendant compares the Gator to a golf cart and/or forklift which, as discussed below, have been held to be outside the ambit of the term "motor vehicle" as it is used in MCL 691.1405. Defendant argues that regardless of any allegations of negligence—which defendant denies—liability cannot be imposed in this case because it remains immune, such that dismissal is warranted.

II. DESCRIPTION OF THE GATOR

The Gator at issue is a 2015 John Deere Gator XUV 4x4 625i model. According to a list of specifications attached to the parties' briefing,¹ the Gator at issue is powered by a 23-horsepower, 617 cc gas engine. The Gator weighs 1,440 pounds and is equipped with bucket seats, seat belts, a steering wheel, front and rear bumpers, front and rear disc brakes, fenders, mud flaps, four-wheel drive, cup holders, a speedometer, trip odometer, and tachometer. At the rear of the Gator is a 45 x 12 x 52-inch bed. The Gator comes equipped with fog lights and headlights. In addition, plaintiff has produced documentary evidence stating that the Gator had, among other features, a windshield, a roof, mirrors, tail lights, brake lights, doors, and side windows. A photograph attached to defendant's briefing, which defendant posits is of an exemplar Gator, confirms these features.

The Gator in this case came equipped from the factory with tires. However, on the day of the accident, the tires had been swapped out for "tank-type" treads or tracks for snow traction. At the time of the accident, Pederson was using the Gator to tow what was described as a "grooming rake" for purposes of grooming ski trails.

III. SUMMARY DISPOSITION

Defendant asks this Court for summary disposition under MCR 2.116(C)(7) for the reason that plaintiff has failed to demonstrate the applicability of the motor-vehicle exception to governmental immunity. On review of a motion brought under subrule (C)(7), the Court "must

¹ The parties' briefing purports to cite the same list of factory specifications for the Gator as obtained via an internet website. The list plaintiff submitted to the Court is longer than the list defendant submitted. On the Court's review of the pertinent website, it appears plaintiff provided the Court with the "Detailed Specifications," while defendant provided an abbreviated list found on the same site.

accept all well-pleaded factual allegations as true and construe them in favor of the plaintiff, unless other evidence contradicts them.” *Dextrom v Wexford Co*, 287 Mich App 406, 428; 789 NW2d 211 (2010). Although the moving party is not required to do so, the moving party may support its position with affidavits or other admissible documentary evidence. *Kincaid v Cardwell*, 300 Mich App 513, 522; 834 NW2d 122 (2013). If the parties submit admissible documentary evidence in support of their respective positions, the Court must consider the evidence to determine whether there is a genuine issue of material fact. *Dextrom*, 287 Mich App at 429. “The reviewing court must view the pleadings and supporting evidence in the light most favorable to the nonmoving party to determine whether the undisputed facts show that the moving party has immunity.” *Kincaid*, 300 Mich App at 522. “If no facts are in dispute, and if reasonable minds could not differ regarding the legal effect of those facts, the question whether the claim is barred is an issue of law for the court.” *Dextrom*, 287 Mich App at 429. “However, if the parties present evidence that establishes a question of fact concerning whether the defendant is entitled to immunity as a matter of law, summary disposition is inappropriate.” *Kincaid*, 300 Mich App at 523.

A. GOVERNMENTAL IMMUNITY AND THE MOTOR-VEHICLE EXCEPTION

As a governmental agency, see MCL 691.1401(a), (g), defendant DNR is generally immune from tort liability while engaged in the exercise or discharge of a governmental function, MCL 691.1407(1). A plaintiff seeking to impose liability on a governmental agency bears the burden of pleading in avoidance of immunity and of establishing that a statutory exception to immunity applies. *Fairley v Dep’t of Corrections*, 497 Mich 290, 300; 871 NW2d 129 (2015); *Mack v Detroit*, 467 Mich 186, 190; 649 NW2d 47 (2002). In this case, plaintiff

pled his claim under the motor vehicle exception articulated in the Governmental Tort Liability Act (GTLA), which provides that:

Governmental agencies shall be liable for bodily injury and property damage resulting from the negligent operation by any officer, agent, or employee of the governmental agency, *of a motor vehicle* of which the governmental agency is owner, as defined in Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Compiled Laws of 1948. [MCL 691.1405 (emphasis added).]

B. SURVEY OF MOTOR-VEHICLE EXCEPTION CASELAW

The lone dispute at this juncture of the litigation is whether the Gator is a “motor vehicle” as contemplated by the GTLA. In *Stanton v Battle Creek*, 466 Mich 611, 616; 647 NW2d 508 (2002), the Supreme Court addressed how a reviewing court is to give meaning to the term “motor vehicle.” After concluding that MCL 691.1405 referred to the motor vehicle code for the definition of “owner,” but not for the term “motor vehicle,” the Supreme Court turned to a dictionary definition to ascertain the meaning of “motor vehicle” in MCL 691.1405. *Id.* at 616-617. And, consistent with the notion that exceptions to governmental immunity are to be construed narrowly, the Court sought a narrow definition of the term “motor vehicle.” *Id.* at 618. The Court concluded that MCL 691.1405’s use of the term “motor vehicle” refers to “an automobile, truck, bus, or similar motor-driven conveyance[.]” *Id.* At issue in *Stanton* was whether a forklift being used to unload a delivery truck constituted a “motor vehicle.” *Id.* at 613. The Court held that a forklift was “a piece of industrial construction equipment” and it was not similar to an automobile, bus, or truck. *Id.* at 618. As a result, “the motor vehicle exception should not be construed to remove the broad veil of governmental immunity for the negligent operation of a forklift.” *Id.*

Following the Supreme Court's decision in *Stanton*, this state's appellate courts have had several occasions to revisit the issue of what constitutes a "motor vehicle." In two decisions, the Court of Appeals has held that tractors—in various forms—are "motor vehicles" for purposes of MCL 691.1405. Most recently in *Yoches v City of Dearborn*, 320 Mich App 461, 474-475; 904 NW2d 887 (2017), the Court of Appeals held that a tractor pulling a hay wagon full of passengers on a hayride was a "motor vehicle" under the GTLA. In that case, the wagon was being pulled on a roadway primarily used by campers and which was patrolled by law enforcement. *Id.* at 474. The Court of Appeals explained that, although tractors "can be used for purposes such as farming," the "'primary function' of a vehicle does not control the analysis at issue in this case." *Id.* Instead, the Court focused on the notion that the tractor was used for carrying passengers over a roadway, which, unlike a forklift, rendered the tractor and hay wagon "invariably connected" to the roadway. *Id.* (citation and quotation marks omitted). In that case, the Court held that "the tractor that pulled the hay wagon at issue . . . was a motor vehicle for purposes of the motor vehicle exception to governmental immunity." *Id.* at 474-475.

Another tractor decision is *Regan v Washtenaw Co Rd Comm'rs (On Remand)*, 257 Mich App 39; 667 NW2d 57 (2003), which involved two consolidated tractor cases. In one case, a plaintiff was injured in a collision with a "broom tractor" that was performing maintenance along the shoulder of the roadway. *Id.* at 42-43. In another case, a plaintiff was injured when a "tractor mower" ran over a tire tread while cutting grass along the side of the highway, propelling the tread into the air and through the plaintiff's windshield. *Id.* at 43. The Court of Appeals' majority held that both the "broom tractor" and the "tractor mower" fit within *Stanton*'s definition of "motor vehicle." *Id.* at 47. The majority held that the tractors were "clearly motor-driven conveyances, in that they are motorized and carry or transport operators over the road, or

alongside the road, while the operators are performing governmental duties.” *Id.* The majority in that case rejected the notion that the “principal function” of the tractors was pertinent, thereby rejecting the dissent’s contention that a vehicle must be used primarily for the purpose of transporting persons, rather than performing maintenance. *Id.* The majority explained that limiting the definition of “motor vehicle” in the manner suggested by the dissent “would exclude numerous governmental vehicles that traverse Michigan roadways, including snowplows, utility and construction vehicles, and emergency vehicles that are used in a maintenance, improvement, or service capacity.” *Id.* Finally, the majority concluded that the tractors in that case were comparable to automobiles, busses, or trucks and that they were intended to be operated on a roadway. *Id.* at 48. The majority concluded that the tractors used in that case were “inseparable” from the roadways even though they were not being driven on the road, just as automobiles, buses, and trucks are “invariably connected to the roadways[.]” *Id.* This invariable connection stood in contrast to the forklift being operated in *Stanton*. *Id.*

In *Wesche v Mecosta Co Rd Comm*, 267 Mich App 274, 278; 705 NW2d 136 (2005),² the Court of Appeals held that a “Gradall” excavator was a “motor vehicle” for purposes of the GTLA. In essence, the Court concluded that if it moved like a truck and if it looked like a truck, it must be a truck—or its equivalent. *Id.* (“The Gradall, a wheeled, motorized vehicle operated by a driver, generally resembles a truck and moves like a truck.”). Given this resemblance, the

² A conflict panel overruled part of the *Wesche* decision that concerned a matter—loss-of-consortium claims—that was not pertinent to the opinion’s discussion of what constitutes a motor vehicle. *Kik v Sbraccia*, 272 Mich App 388; 726 NW2d 450 (2006). The Supreme Court later vacated the conflict panel’s decision and affirmed the judgment in *Wesche*. *Wesche v Mecosta Co Rd Comm*, 480 Mich 75, 79-80; 746 NW2d 847 (2008). Thus, *Wesche*’s discussion of the applicability of the motor-vehicle exception to the excavator in that case remains good law.

fact that the Gradall could also be used as an excavator was not dispositive, particularly where the Gradall could, as it was in that case, be driven along the roadways just like any other truck could be driven. *Id.*

As for what does not constitute a “motor vehicle,” the Supreme Court’s order in *Overall v Howard*, 480 Mich 896; 738 NW2d 760 (2007),³ adopted the reasoning articulated in the Court of Appeals’ dissenting opinion and held that a golf cart is not a motor vehicle for purposes of MCL 691.1405. As set forth in Judge Jansen’s partial concurring and dissenting opinion in that matter, a golf cart driven by an athletic trainer at a high school football game was not a “motor vehicle” for purposes of MCL 691.1405. *Overall v Howard*, unpublished per curiam opinion of the Court of Appeals, issued April 26, 2007 (Docket No. 274588) (JANSEN, J., dissenting in part and concurring in part), p. 1. After surveying some of the pertinent caselaw described above, Judge Jansen concluded:

... the vehicles at issue in *Wesche* and *Regan* were motor-vehicle-like conveyances that were designed for operation on or alongside the roadway, and each of these conveyances generally resembled an automobile or truck. In contrast, the forklift at issue in *Stanton* was not similar to an automobile, bus, or truck, and was not designed for operation on or alongside the roadway.

I conclude that the golf cart in the instant case more closely resembles the forklift at issue in *Stanton* than it did the conveyances at issue in *Wesche* and *Regan*. Under the reasoning of *Stanton*, the golf cart did not meet the definition of a motor vehicle. The motor vehicle exception of MCL 691.1405 should not

³ Supreme Court orders are binding precedent “to the extent they can theoretically be understood, even if doing so requires one to seek out other opinions[.]” *Woodring v Phoenix Ins Co*, 325 Mich App 108, 115; 923 NW2d 607 (2018). Here, the Supreme Court order in *Overall* adopted—as will be discussed—the reasoning of Judge Jansen’s dissent with respect to the motor-vehicle exception. That dissenting opinion contained sufficient facts so as to be understood and, as a result, the order adopting the opinion is binding precedent. See *id.*

have been applied in this case, and the school district was entitled to summary disposition. [*Id.* at pp. 1-2.]

In short, while the dissenting opinion did not describe the characteristics or specifications of the golf cart in great detail, it concluded that the golf cart was akin to a forklift and that it was not designed for operation on or alongside the roadway. In addition, the dissent placed significance on the fact that the golf cart, unlike the vehicles in *Wesche* and *Regan*, did not “generally resemble[]” an automobile or truck. In lieu of granting leave to appeal in *Overall*, the Supreme Court remanded the matter to the circuit court for entry of judgment in favor of the governmental entity “for the reasons stated in the Court of Appeals dissenting opinion[.]” *Overall*, 480 Mich at 896.

C. THE GATOR IS A MOTOR VEHICLE UNDER MCL 601.1405

In light of the above caselaw, the Court concludes that the Gator at issue in this case was, under the definition espoused in *Stanton* and examined in the cases noted above, a “motor vehicle” under MCL 691.1405, such that plaintiff has successfully pled an exception to governmental immunity. At the outset, the Gator has the appearance, unlike the forklift in *Stanton* and the golf cart in *Overall*, of “an automobile, truck, bus, or similar motor-driven conveyance[.]” See *Stanton*, 466 Mich at 618 (defining “motor vehicle” for purposes of MCL 691.1405). As noted above, the Gator was equipped with bucket seats, seat belts, bumpers, cup holders, a roof, a windshield, mirrors, doors, side windows, as well as tail lights, brake lights, and head lights. In addition, the list of specifications provided by the parties’ briefing reveals an instrument cluster—speedometer, tachometer, and trip odometer—similar to the instrument cluster in a car or truck. The 1,440 pound vehicle has a bed similar—albeit smaller, however—to a truck bed. And, while the Gator was equipped with snow treads on the day of the accident, it typically was equipped with tires. As a result, the Gator at issue more closely resembles an

automobile, truck, or similar motor-driven conveyance than it does a forklift or a golf cart. See *Wesche*, 267 Mich App at 278. Cf. *Overall*, 480 Mich 896; *Stanton*, 466 Mich at 618. Defendant’s attempts to compare the Gator to the golf cart in *Overall*, which are made without reference to the specifications of the Gator, are unavailing in light of the documentary evidence attached to the parties’ briefing.

In addition to resembling an automobile or truck, the Court concludes that, based on the documents and pleadings presented, the intended and actual use of the Gator in the instant case are more similar to the vehicles in cases such as *Yoches*, *Wesche*, and *Regan* than they are to the industrial equipment (forklift) in *Stanton* or the golf cart in *Overall*. In essence, the Gator “moves like a truck” or similar motor-driven conveyance. See *Wesche*, 267 Mich App at 278. In this respect, the Gator was being driven along a series of trailways—which were marked with traffic-control devices similar to roadways—for the purpose of performing maintenance on those trails. See *Yoches*, 320 Mich App at 474-475; *Regan (On Remand)*, 257 Mich App at 47-48. Just like in *Regan*, the alleged negligent use of the Gator in this case injured plaintiff as he was operating a motor vehicle—or similar conveyance—of his own. See *Regan (On Remand)*, 257 Mich App at 48-49 (“A reading of the language used by the Legislature in MCL 691.1405 indicates a desire and purpose, in part, to make roadways as safe for travel as possible by creating liability for governmental vehicles that are operated negligently and that create a danger for citizens as they use those same roadways.”). Furthermore, the documentary evidence attached to plaintiff’s briefing states that Gators and vehicles of similar ilk are capable of being driven legally on county roadways, including in the county where the accident at issue occurred. Hence, the Gator possesses the requisite “invariabl[e] connection” to roadways, similar to

automobiles, buses, and trucks, regardless of the Gator's principal function or regardless of where the accident occurred in this case, i.e., on a roadway or some other location. See *id.* at 48.

In sum, the Gator looked like a motor vehicle, moved like one, and had the requisite connection to the roadways, just as the subject vehicles had in cases such as *Yoches*, *Regan*, and *Wesche*. These factors convince the Court that the Gator was a motor vehicle, such that the motor-vehicle exception to governmental immunity applies.

Plaintiff in the instant case cites an unpublished decision from the Court of Appeals, *Yousif v City of Sterling Hts*, unpublished per curiam opinion of the Court of Appeals, issued October 29, 2009 (Docket No. 288302), which involved a John Deere Gator. The Court need not, and does not, rely on that non-binding decision to reach its holding in the instant case, for the reasons articulated above. In addition, it is not readily apparent how comparable the Gator at issue in that case, which was described as a "utility tractor" and which is at best a much older iteration of the Gator at issue in the case at bar, is to the vehicle at issue in the instant case.⁴ Nevertheless because the parties' briefing discusses the decision and because the case involved a vehicle bearing the same name as the vehicle in the instant case, the Court will briefly address the same. In a 2-1 decision, the Court of Appeals held in *Yousif* that a Gator being used to pull a trailer which transported festivalgoers visiting downtown Sterling Heights was a motor vehicle.

⁴ Indeed, in a dissenting opinion to the Supreme Court's denial of leave to appeal in *Yousif*, Justice Corrigan stated that the Gator at issue in that case, which had only a 10 horsepower engine, "looks like a golf cart and is often called a golf cart." *Yousif v City of Sterling Hts*, 486 Mich 853, 854; 780 NW2d 301 (2010) (CORRIGAN, J., dissenting). Based on the parties' documentary evidence in the instant matter, the Gator does not look like, and would not be mistaken for, a golf cart. Thus, the Gator in the instant case presents even a stronger case for being a "motor vehicle" than did the Gator in *Yousif*.

Yousif, unpub op at pp. 2-3. The majority held that the Gator’s “transportational purpose” in that case carried the day, reasoning that because the Gator was transporting passengers from one location to another, it was operating in a similar manner as a shuttle bus. *Id.* at 3. And because it was being operated as a bus, it fit the definition of a similar motor-driven conveyance. *Id.*, citing *Stanton*, 466 Mich at 618.

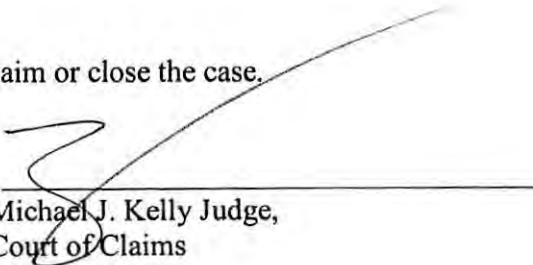
As noted above, the pertinent binding caselaw compels the conclusion that the Gator at issue in this case is a “motor vehicle” for purposes of MCL 691.1405. Nevertheless, to the extent the *Yousif* decision is persuasive authority, it provides additional support for the Court’s conclusion that the Gator was a motor vehicle as contemplated by MCL 691.1405. Indeed, it appears that the Gator at issue in the instant case even more closely resembles a motor vehicle or similar conveyance than did the Gator in *Yousif*.

IV. CONCLUSION

IT IS HEREBY ORDERED that defendant’s motion for summary disposition is DENIED.

This order does not resolve the last pending claim or close the case.

May 29, 2019



Michael J. Kelly Judge,
Court of Claims



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UPDATES FOR MODEL YEAR 2015 GATOR™ XUV 625i UTILITY VEHICLES



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The model year 2015 XUV 625i has the following updates:

XUV 625i

- Environmental Protection Agency (EPA) and California Air Resources Board (CARB) compliant in the small off-road engine (SORE) emissions class.
- Changes to the vehicle:
 - Carbon canister
 - Speed reduction (less than 25 mph [less than 40.2 km/h])

Reasons for the speed change:

The speed dropped from 30 mph to 25 mph (48.3 km/h to 40.2 km/h) in order for John Deere to maintain the product in the lineup. The XUV 625i could not pass new emissions standards for the greater than 25 mph (greater than 40.2 km/h) off-highway recreational vehicle (OHRV) category. The XUV 625i passes the requirements for the standard covering 25 mph (40.2 km/h) and below vehicle speeds associated with SORE emissions class.

Why HPX versus XUV 625i?

Cargo box

The HPX has a 16-gauge, all-steel box versus the steel and poly deluxe box on the XUV machines. The deluxe box on the XUV machine gives customers more versatility with removable sides and tailgate for a flatbed option. From a volume standpoint, the HPX has 13.1 cu ft versus 16.4 cu ft for the XUV 625i.

Terrain capability

HPX has a semi-independent rear suspension versus the four-wheel independent suspension of the XUV 625i. The HPX has 6-in. of ground clearance compared to 11-in. for the XUV 625i.

KEYWORDS

COMMERCIAL WORKSITE

CROSS IMPLEMENT INC

CROSSTRaining

EZ TRAIL GRAIN CART

JOHN DEERE BALER

JOHN DEERE COMBINE

JOHN DEERE COMMERCIAL

JOHN DEERE COMPACT TRACTOR

JOHN DEERE COMPACT UTILITY TRACTOR

JOHN DEERE CUSTOMER EVENT

JOHN DEERE DEALER EMPLOYMENT

JOHN DEERE DEALER JOBS

JOHN DEERE EQUIPMENT

JOHN DEERE EVENTS

JOHN DEERE FARMSIGHT

Goss v DNR_App'x 093a

When it comes to tire options, the HPX has three tire options that are more focused on turf and less aggressive terrains. The XUV 625i has three tire options that are more focused on rough, varied terrains.

For customers who have heavy loads to carry but are less focused on rough or varied terrain capability, the HPX would fill their needs. The XUV 625i gives the customer additional ride quality and terrain capability.

Competitors' speed ratings

The Kawasaki® Mule 610 Utility Vehicle, Kawasaki Mule 4010, Kubota® RTV400/500 Utility Vehicle, and the Kubota RTVX900 are all rated at 25 mph (40.2 km/h), therefore the speed change on the XUV 625i matches up with these competitors.

The XUV 625i fills a smaller niche in the full-size XUV category when compared to the 825i or 855D. For those customers unwilling to pay, or who do not want the added speed and power of the 825i, but still want the substantial improvements of a larger deluxe cargo box and independent suspension not available on the HPX, the XUV 625i will meet the needs.

Please see the Sales Manual for additional information on the crossover Gator utility vehicles.

Availability

Please see Ag & Turf Availability for current shipping details.

Kawasaki is a trademark of Kawasaki Heavy Industries, Ltd. Kubota is a trademark of Kubota Tractor Corporation.

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Date : 11-Feb-2015

Product features are based on published information at the time of publication and are subject to change with trademarked terms, including John Deere, the leaping deer symbol and the colors green and yellow used here of Deere & Company, unless otherwise noted. Availability of products, product features, and other content on vary by model and geographic region.

Engine horsepower and torque information for non-Deere engines are provided by the engine manufacturer for purposes only.

Actual operating horsepower and torque will be less. Refer to the engine manufacturer's Web site for additional information.

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Gator™ track system



Gator track system

Play, work, and explore in all four seasons. Wheeled utility vehicles get buried very quickly in deep snow, swamps, sand, or muddy ground conditions. Adding a Camoplast tracks system will improve floatation and traction and will take you where wheels simply can't go. Get true four-season capability without compromising winter performance with Camoplast® track kits. Installed easily in one hour. And when the snow goes, switch back to wheels in an hour or less.

Camoplast has the only system on the market with anti-rotation on the rear spring that allows the rear of the track to swing upwards to climb on top of any difficult surface.

The fusible link on the anti-rotation system is designed to take the impact of every bump, jolt and crash to prevent damaging your vehicle.

Drive sprockets designed specifically for use on the XUV.

Benefits of tracks include:

- All seasons capability - ideal for snow, mud, and marsh
- Easy steering - front radius track shape and carriage
- Increased vehicle stability while increasing ground clearance
- Drive sprockets matched to engine displacement

NOTE: Not compatible with standard straight blade, v-blade, front fender guards, rear bumper, and rear fender guards.

Ordering information

Contact the local John Deere dealer for availability and pricing information.

Gator track system for XUV 825i and XUV 825i S4

Order number: LP40587

Camoplast is a U.S.-registered trademark of CAMOPLAST Inc.

Code	Attachment	Description
	LP40587	Gator track system for XUV 825i and XUV 825i S4 <i>NOTE: Not compatible with standard straight blade, v-blade, front fender guards, rear bumper, and rear fender guards.</i>

Last Updated : 24-Jun-2019

STATE OF MICHIGAN
COUNTY OF CHIPPEWA
ORV ORDINANCE
ORDINANCE No. 14-01

An ordinance adopted for the purpose of authorizing and regulating the operation of Off Road Vehicles (ORVs) on roads in Chippewa County, for the purpose of providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to 2008 PA 240, MCL 324.81131.

THE COUNTY OF CHIPPEWA ORDAINS:

Section I

As used in this ordinance, the following definitions shall apply:

- a) "County" means the County of Chippewa
- b) "Driver license" means an operator's or chauffeur's license or permit issued to an individual by the secretary of state under chapter III of the Michigan vehicle code, 1949 PA 300, MCL 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.
- c) "Operate" means to ride in or on, and be in actual physical control of the operation of an ORV.
- d) "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
- e) "ORV" means a motor driven off road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. ORV or vehicle includes, but is not limited to, a multitrack or multiwheel drive vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel, or 4-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind. "ORV" or vehicle does not include a snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a construction or logging vehicle used in performance of its common function. This includes but is not limited to, ORV's commonly know as 3-wheelers and 4-wheelers.
- f) "Road" means a county primary road or county local road as described in section 5 of 1951 PA 51, MCL 247.655.
- g) "Road Commission" means the Board of County Road Commissioners for the County of Chippewa.
- h) "Safety certificate" means a certificate issued pursuant to 1994 PA 451 as amended, MCL 324. 81129, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada."
- i) "Township" means an individual township within the County of Chippewa.

j) "Township Board" means a board of trustees of any township within the County of Chippewa.

k) "Visual supervision" means the direct observation of the operator with the unaided or normally corrected eye, where the observer is able to come to the immediate aid of the operator.

l) "Highway" means a state trunk line highway or a segment of a state trunk line highway.

Section 2

An ORV may be operated on the far right of the maintained portion of a road within the County.

Section 3

A township board of a township in the county may adopt an ordinance to close any roads within the boundaries of the township to the operation of ORVs permitted by the county. Beginning July 17, 2009, the township board of a township in the county may adopt an ordinance authorizing the operation of ORVs: on the maintained portion of 1 or more roads located within the township," pursuant to MCL 324.81 131 (3).

Section 4

The county road commission may close no more than 30% of the total linear miles of roads in the county to protect the environment or if the operation of ORVs pose a particular and demonstrable threat to public safety. The road commission may not close a municipal street to ORVs opened under Section 5 of this ordinance.

Section 5

A person shall not operate an ORV on the roadway, shoulder or right-of-way of any highway, except on specific segments of highway that are posted open, and have been authorized by the Michigan Department of Transportation pursuant to 1994 PA 451, as amended, being MCL 324.81101 and 324.81131

Section 6

Except as set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on a road or street in the county:

- a) at a speed of no more than 25 miles per hour or a lower posted ORV speed limit.
- b) by a person not less than 12 years of age.
- c) with the flow of traffic.
- d) in a manner which does not interfere with traffic on the road or street.
- e) traveling single file except when overtaking and passing another ORV.
- f) when visibility is not substantially reduced due to weather conditions unless displaying a lighted headlight and lighted taillight.
- g) 1/2 hour before sunrise until 1/2 after sunset unless displaying a lighted headlight and lighted taillight.

h) while displaying a lighted headlight and lighted taillight at all hours beginning January 1, 2010.

i) while the operator and each passenger is wearing a crash helmet and protective eyewear approved by the United States department of transportation unless the vehicle is equipped with a roof that meets or exceeds standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened seat belt.

j) with a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.

k) while the ORV is equipped with a spark arrester type United States forest service approved muffler in good working order and in constant operation.

l) pursuant to noise emission standards defined by law.

Section 7

A child less than 16 years of age shall not operate an ORV on a road in the county unless the child is under the direct visual supervision of an adult and the child has in his or her immediate possession a Michigan issued ORV safety certificate or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

Section 8

Unless a person possesses a valid drivers license, a person shall not operate an ORV on a road or street in the county if the ORV is registered as a motor vehicle and is either more than 60 inches wide or has three wheels.

Section 9

Any person who violates this ordinance is guilty of a municipal civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

Section 10

A court may order a person who causes damage to the environment, a road or other property as a result of the operation of an ORV to pay full restitution for that damage above and beyond the penalties paid for civil fines.

Section 11

The County Treasurer shall deposit all fines and damages collected under this ordinance into a fund to be designated as the ORV Fund. The County Board of Commissioners shall appropriate revenue in the ORV Fund as follows:

a) Fifty percent to the County Road Commission for repairing damage to roads and the environment that may have been caused by ORVs, and for posting signs indicating ORV speed limits, or indicating whether roads are open or closed to the operation of ORVs.

b) Fifty percent to the County Sheriff for ORV enforcement and training.

Section 12

This ordinance becomes effective 10/14/2014.

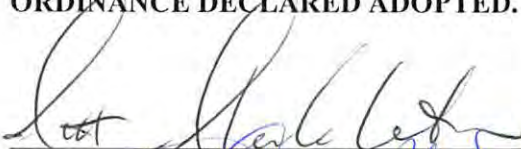
This Ordinance is adopted by action of the Chippewa County Board of Commissioners this 13th day of October 2014.

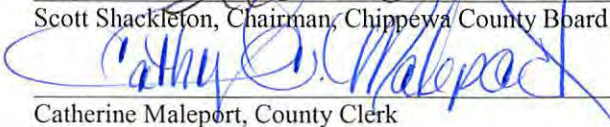
Commissioners voting "Aye": Ted Postula, George Kinsella, Scott Shackleton

Commissioners voting "Nay": None

Commissioners Absent: Don Cooper, Don McLean

ORDINANCE DECLARED ADOPTED.



 Scott Shackleton, Chairman, Chippewa County Board of Commissioners


 Catherine Maleport, County Clerk

STATE OF MICHIGAN)
) ss.
 COUNTY OF CHIPPEWA)

I hereby certify that the foregoing is a true and complete copy of the resolution adopted by the County Board of Commissioners of Chippewa County at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.



 Catherine Maleport, County Clerk

The Office of

Secretary of State Jocelyn Benson

SOS



Can an off-road vehicle (ORV), including an ORV utility vehicle or 4-wheel ATV "quad," be modified for on-road registration?

Off-Road Vehicles Cannot Be Registered For On-Road Use

Vehicles manufactured as an off-road vehicle (ORV) cannot be modified and titled as an assembled vehicle for on-road use. A vehicle manufactured as an ORV, even if the owner added accessories such as lights, windshield, and street legal tires, does not qualify as an assembled vehicle, including a low-speed assembled vehicle, because:

- It was not built from new or used parts by someone other than a manufacturer, and
- It was not altered or modified to the extent that it no longer reflects its original manufacturer configuration.

ORV manufacturers state their vehicles are not designed for on-road use and include a statement on their Manufacturer Certificate of Origin (MCO) that the vehicle was built for off-road use only. ORVs that cannot be titled and registered for on-road use include:

a) 4-wheel and 6-wheel ORV utility vehicles. These units look like small trucks with a roof. Examples include the Polaris Ranger, John Deere Gator, Kawasaki Mule, Yamaha Viking, Honda Pioneer, and Kubota RTV.

b) 4-wheel all-terrain vehicles (ATVs). Often called "quads," these are units with handlebars and a seat straddled by the operator.

c) Dune buggies manufactured for off-road use only.

d) Gray Market off-road "mini trucks." These are imported as ORVs rather than motor vehicles. It is not possible to upgrade them to meet U.S. EPA emission standards and DOT safety standards. They can only be titled as an ORV. Examples include the Suzuki Carry, Subaru Sambar, Honda ACTY, Mazda Scrum, and Daihatsu Hijet.

e) Ex-military Humvees. The Federal government mandates that Humvees are restricted to off-road use only. See below for more information about Humvees.

Vehicles whose MCO show the vehicle was built to federal low speed vehicle standards may be titled as a low speed vehicle using the year, make, and VIN shown on the MCO.

Trail bikes (2-wheel motorcycles) may be upgraded for on-road use.

Related Documents and Topics

- **Ex-military Humvees**
- **Recreational Vehicle and Watercraft Fees**
- **Additional DNR ORV Information**
- **Renew Watercraft**
- **Duplicate Registration**
- **Replacement Title**

If you did not find the information you need, enter a descriptive word or phrase in the Search field located in the upper right corner. Or send us an e-mail by clicking on "Contact the Secretary of State" also in the upper right corner and we will help you get the information you need.



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