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I. INTRODUCTION

Arguably two of the most axiomatic interests the Georgia legislature must consider when enacting laws are the interests of local governments to carry out public works and individual citizens' abilities to seek full and adequate relief when they have been injured by the wrong of another. For example, although police officers generally enjoy immunity for acts performed in their official capacity, there is also a compelling government interest in allowing individuals to recover for a police officer's negligent or reckless conduct, recoveries which often repay local hospitals or government insurance systems for treatment otherwise covered by taxpayer dollars. These two principles of law are often at odds with one another, which tasks both the legislature and the courts with the difficult—and sometimes seemingly impossible—job of forging a workable compromise.

When considering injuries caused by the negligent or reckless operation of government-owned motor vehicles, one of the most common ways in which this conflict arises, the Georgia legislature has enacted

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various statutes addressing the ability of an individual to recover in such situations. However, given the competing interests at play in these cases, litigation implicating these statutes has sometimes yielded inconsistent results. In *Atlantic Specialty Insurance Company v. The City of College Park*,[1] the Supreme Court of Georgia considered a case interpreting section 36-92-2 of the Official Code of Georgia Annotated.[2] In contravention of previous legislation waiving local governmental sovereign immunity only to the extent a local government carried applicable liability insurance, O.C.G.A § 36-92-2 automatically waives a local government's sovereign immunity in automobile collisions up to a discrete sum of $700,000. As further explained, although local governments are still free to purchase liability coverage exceeding the statutory threshold enumerated in O.C.G.A § 36-92-2, insurers may now insert disclaiming language within their insurance policies to limit coverage for automobile collisions to only those amounts set forth in the statute.

II. FACTUAL BACKGROUND

On January 31, 2016, Dorothy Wright, Cameron Costner, and Layla Partridge (collectively, the Decedents) were passengers in a motor vehicle struck by a stolen vehicle being chased by the City of College Park Police Department.[3] The representatives of the Decedents' respective estates filed a wrongful death lawsuit against the City of College Park (the City) in the State Court of Fulton County claiming that the City negligently and recklessly caused the Decedents' deaths. In response, the City claimed sovereign immunity.[4]

At the time pertinent to the subject collision, the City had a Commercial Liability Insurance policy with Atlantic Specialty Insurance Company (Atlantic Specialty) with a $1,000,000 business auto liability limit and a $4,000,000 excess liability limit.[5] The policy also provided that Atlantic Specialty had no duty to pay claims "unless the defenses of sovereign and governmental immunity [were] inapplicable."[6] Fearing a potential $5,000,000 exposure, Atlantic Specialty filed a declaratory action against the City in the United States District Court for the Northern District of Georgia to establish that, pursuant to O.C.G.A.

1. 313 Ga. 294, 869 S.E.2d 492 (2022) [hereinafter *Atlantic II*].
2. O.C.G.A. § 36-92-2 (2022).
3. *Atlantic II*, 313 Ga. at 294, 869 S.E.2d at 493.
4. *Id.*
5. *Id.* at 295, 869 S.E.2d at 494.
6. *Id.* at 295–96, 869 S.E.2d at 494.

§ 36-92-2(a)(3),[7] the applicable limit of insurance in the underlying lawsuit was $700,000.[8] The district court dismissed the action because, among other reasons, the court lacked subject matter jurisdiction.[9]

Consequently, Atlantic Specialty intervened in the underlying lawsuit between the Decedents' representatives and the City with the limited purpose of determining the applicable limits of the insurance policy in the case.[10] Atlantic Specialty filed a motion for partial summary judgment asking the trial court to find as a matter of law that the applicable limit was $700,000.[11] The trial court denied Atlantic Specialty's motion and ruled the applicable liability limit was $5,000,000 pursuant to O.C.G.A. § 36-92-2(d)(3), which provides that the statutory sovereign immunity waiver is increased to the extent that commercial liability insurance is purchased in excess of the thresholds set in O.C.G.A. § 36-92-2(a).[12]

Atlantic Specialty appealed, contending the terms of the policy expressly preserved the City's right to claim sovereign immunity.[13] However, the Georgia Court of Appeals found no error in the trial court's decision and affirmed. Atlantic Specialty then appealed to the Supreme Court of Georgia.[14]

III. LEGAL BACKGROUND

A. Sovereign Immunity Under Previous Statutory Scheme

Pursuant to the Georgia Constitution, a municipality's sovereign immunity "can only be waived by an Act of the General Assembly which specifically provides that sovereign immunity is thereby waived and the extent of such waiver."[15] Further, the Georgia Constitution provides immunity from suits against officials who may cause injury in the performance of their official duties.[16] In recognition of the general

7. O.C.G.A § 36-96-2(a)(3) (2022).

8. *Atlantic II*, 313 Ga. at 297, 869 S.E.2d at 495.

9. *Id.*

10. Atl. Specialty Ins. Co. v. City of College Park, 357 Ga. App. 556, 557, 851 S.E.2d 189, 191 (2020) [hereinafter *Atlantic I*].

11. *Id.*

12. *Atlantic II*, 313 Ga. at 297, 869 S.E.2d at 495; O.C.G.A. § 36-92-2(d) (2022); O.C.G.A. § 36-92-2(a) (2022).

13. *Atlantic I*, 357 Ga. App. at 557, 851 S.E.2d at 191.

14. *Atlantic II*, 313 Ga. at 298, 869 S.E.2d at 496.

15. GA. CONST. art. I, § 2, para. 9.

16. *Id.*

framework set forth in the Georgia Constitution, the Georgia General Assembly declared that it is public policy of the state for the state and local government to be immune from liability for damages except in instances codified in Chapter 92 of title 33 of the Georgia Code.[17]

Despite automobile collisions being a foreseeable consequence of the state's ownership and operation of motor vehicles, the Georgia legislature did not expressly waive the government's sovereign immunity for the negligent operation of motor vehicles until 2002.[18] Before O.C.G.A. § 36-92-2, a threshold question to determine whether a governmental entity's sovereign immunity had been waived with respect to a car wreck turned on whether the governmental entity had purchased liability insurance.[19] Prior to 2002, the 1985 version of O.C.G.A. § 33-24-51 provided that a state entity was "authorized" to purchase liability insurance to cover damages caused by the entity's ownership and operation of motor vehicles.[20] Under the 1985 version of the statute, if a governmental entity decided to purchase a commercial automobile liability policy, then sovereign immunity was waived to the extent of the insurance limits purchased.[21] Counties and municipalities were allotted discretion to determine whether they would purchase autotomobile liability insurance, and Georgia courts held that sovereign immunity was not waived when uninsured counties and municipalities were subsequently sued for automobile collisions.[22] Accordingly, this version of the code often led to inconsistent and sometimes undesirable outcomes in situations in which a county or municipality was uninsured.

In *Cameron v. Lang*,[23] the Supreme Court of Georgia recognized the undesirable outcomes created by the 1985 version of O.C.G.A. § 33-24-51 and called for legislative action to amend the code to reduce the inconsistent outcomes surrounding car wrecks caused by government vehicles. In *Cameron*, the Supreme Court of Georgia consolidated two appeals from the Georgia Court of Appeals to consider, among other things, when qualified immunity is to be applied in cases involving alleged reckless operation of local government vehicles.[24]

17. O.C.G.A. § 36-33-1(a) (2022).
18. *See* O.C.G.A. § 36-92-2 (2022).
19. Cameron v. Lang, 274 Ga. 122, 122, 549 S.E.2d 341, 343 (2001).
20. O.C.G.A. § 33-24-51 (1985).
21. O.C.G.A. § 33-24-51(b) (1985).
22. *See, e.g.*, Williams v. Solomon, 242 Ga. App. 807, 531 S.E.2d 734 (2000).
23. 274 Ga. at 127, 549 S.E.2d at 347.
24. *Id.* at 122, 549 S.E.2d at 343.

In the first case, *Williams v. Solomon*,[25] the plaintiff was driving when his vehicle was struck at an intersection by a police officer in pursuit of a suspect. At the time of the subject collision, neither the City of Savannah nor its respective police department had an insurance policy for the police vehicles. In his complaint, the plaintiff alleged that the defendant-officer was not using the emergency lights or siren on his police car, which constituted a violation of O.C.G.A. § 40-6-6[26] amounting to reckless disregard for public safety. The defendant-officer argued that regardless of any argument that he was acting recklessly, he was still protected by qualified immunity. The defendant filed for summary judgment on these grounds and the trial court granted the motion.[27]

On appeal, the plaintiff maintained, among other things, that summary judgment was improper because there were issues of material fact surrounding the defendant-officer's conduct at the time of the subject collision.[28] The Georgia Court of Appeals held that summary judgment was proper because there was not a relevant liability insurance in place by the City of Savannah at the time of the collision and O.C.G.A. § 40-6-6 did not expressly waive the defendant's qualified immunity without the presence of such an insurance policy. Accordingly, the Georgia Court of Appeals affirmed the trial court's judgment. The plaintiff then appealed to the Supreme Court of Georgia.[29]

In the second case of the consolidated opinion, *Cameron v. Lang*, the plaintiff filed a wrongful death suit against the Peach County Sheriff and his deputy after the plaintiff's husband was involved in a head-on collision with a vehicle being pursued by the named deputy.[30] Similar to the *Williams* case, the plaintiff in *Cameron* alleged that the defendant-deputy acted recklessly within the meaning of O.C.G.A § 40-6-6(d)(2),[31] which provides that a pursuing officer shall not be deemed the proximate cause for any injuries sustained due to a vehicle pursuit unless the "law enforcement officer acted with reckless disregard for proper law enforcement procedures."[32] However, unlike *Williams*, the

25. 242 Ga. App. 807, 531 S.E.2d 734.
26. O.C.G.A. § 40-6-6 (2022).
27. *Cameron*, 274 Ga. at 122, 549 S.E.2d at 344.
28. *Williams*, 242 Ga. App. at 808, 531 S.E.2d at 735–36.
29. *Cameron*, 274 Ga. at 122, 549 S.E.2d at 343.
30. *Id.* at 122–23, 549 S.E.2d at 344.
31. O.C.G.A. § 40-6-6(d)(2) (2022).
32. *Id.*

Peach County defendants had an automobile liability policy in place that covered the county's police vehicles at the time of the subject collision.[33]

The Peach County defendants filed a motion for summary judgment contending they were protected by qualified immunity and official immunity, and the County also alleged that the plaintiff lacked evidence to support her allegation that the deputy recklessly caused the events leading to the subject collision.[34] The trial court found the Peach County defendants were entitled to judgment as a matter of law, finding in favor of all three contentions of the defendants' motion.[35]

On appeal, the plaintiff argued that summary judgment was improper because the trial court erroneously determined there was no genuine issue of material fact that the defendant-deputy acted recklessly enough to satisfy O.C.G.A. § 40-6-6(d)(2).[36] The Georgia Court of Appeals, viewing the record evidence in the light most favorable to the plaintiff, agreed there was a genuine issue of material fact and reversed the trial court's decision with respect to the plaintiff's claim against the defendant-deputy. Interestingly, the Georgia Court of Appeals did not address the issue of whether the sheriff or the deputy were protected by qualified immunity or official immunity.[37] Nonetheless, the defendant-deputy sought review from the Supreme Court of Georgia.[38]

The Supreme Court of Georgia granted certiorari for both cases and consolidated them to resolve the seemingly different outcomes of two ostensibly analogous fact patterns.[39] The court ultimately held that a threshold question for the trial courts to decide is whether an official is protected by qualified immunity before undergoing an analysis under O.C.G.A. § 40-6-6.[40]

Applying this standard to the respective cases, the court then turned its analysis to the language of the 1985 version O.C.G.A. § 33-24-51.[41] Despite substantial similarities, the court recognized that the dispositive distinction between the two cases was the existence of liability

33. *Cameron*, 274 Ga. at 127, 549 S.E.2d at 347.

34. Lang v. Becham, 243 Ga. App. 132, 530 S.E.2d 746 (2000).

35. *Id.*

36. *Id.*

37. *Id.* (affirming the trial court's decision with respect to the claim against the sheriff because the plaintiff did not put forth any arguments regarding the sheriff's portion of the claim in her appeal).

38. *Cameron*, 274 Ga. at 122–23, 549 S.E.2d at 343.

39. *Id.* at 122, 549 S.E.2d at 343.

40. *Id.*

41. *Id.* at 126–27, 549 S.E.2d at 346–47.

coverage.[42] With respect to *Williams*, the court held that because there was no evidence that the City of Savannah had an insurance policy in effect during the collision, the City of Savannah had not waived its governmental immunity.[43] Accordingly, the court affirmed the Georgia Court of Appeals' decision.[44] Conversely, with regard to *Cameron*, the Supreme Court Georgia held that because the Peach County defendants conceded that Peach County maintained automobile liability insurance at the time of the collision, the Peach County defendants had waived their governmental and official immunity to the extent of the applicable insurance limits.[45]

The Supreme Court of Georgia further noted that these two cases were illustrative of the problematic drafting of the 1985 version of O.C.G.A. § 33-24-51.[46] As the cases demonstrated, a plaintiff's ability to recover damages in lawsuits involving automobile collisions caused by the negligent operation of a vehicle by a police officer necessarily depended on whether the local government of that police department had liability insurance in place for their police fleet. Further, the Supreme Court of Georgia voiced its concern over giving municipalities broad discretion to forego purchasing liability insurance despite the prevalence of high-speed pursuits posing a substantial risk to the public at large.[47] Accordingly, the Supreme Court of Georgia urged the Georgia General Assembly to amend the law to require local governments to maintain some liability insurance for the operation of their vehicles.[48]

B. Sovereign Immunity Under Revised Statutory Scheme

Seemingly in response to the Supreme Court of Georgia's 2001 recommendation in *Cameron,* the Georgia legislature enacted O.C.G.A § 36-92-2 in 2002. Rather than requiring the purchase of automobile liability insurance, however, this new statute waived a local government's sovereign immunity for the negligent operation of motor vehicles to a set dollar amount. O.C.G.A. § 36-92-2(a) phased in a graduated waiver of sovereign immunity over three specified date ranges, which ultimately allowed for a waiver of sovereign immunity for injuries

42. *Id.* at 127, 549 S.E.2d at 347.
43. *Id.*
44. *Id.* at 128–29, 548 S.E.2d at 348.
45. *Id.* at 129, 548 S.E.2d at 348.
46. *Id.* at 127, 548 S.E.2d at 347.
47. *Id.*
48. *Id.*

or deaths starting on January 1, 2008, to $500,000 per person with an aggregate amount of $700,000.[49]

While O.C.G.A. § 33-24-51[50] underwent minor changes to reflect the enactment of O.C.G.A § 36-92-2, there were no significant substantive changes. For instance, despite sovereign immunity being automatically waived under the new statute, the amended version of O.C.G.A. § 33-24-51 still "authorizes" local governments to use their discretion in determining whether they will purchase liability insurance for the motor vehicles they own and operate. However, in response to *Atlantic II*, subsection (a) was amended to say, "[w]henever a municipal corporation, a county, or other political subdivision of this state shall purchase liability insurance . . . in an amount greater than the amount of immunity waived as in Code Section 36-92-2, its governmental immunity shall be waived to the extent of the amount of insurance so purchased."[51] This comports with O.C.G.A. § 36-92-2(d)'s provision that local governments, either through ordinance or the procurement of additional risk management products, could voluntarily exceed the threshold limits imposed by O.C.G.A. § 36-92-2(a).[52]

IV. COURT'S RATIONALE

As a preliminary matter, the Supreme Court of Georgia in *Atlantic II* echoed the Georgia General Assembly's reiteration of Section II Paragraph IX of the Georgia Constitution holding that the public policy of the state is to provide local governments sovereign immunity, and the narrow exceptions to this immunity must be expressly codified in Georgia law.[53]

Next, the court considered the statutory framework providing the waiver of sovereign immunity in a local government's negligent operation of motor vehicles.[54] Specifically, the Supreme Court of Georgia addressed the process that existed prior to 2005 through which the courts determined whether a local government's sovereign immunity had been waived.[55] The Supreme Court of Georgia then noted how that process changed once the automatic limited waiver provided by O.C.G.A.

49. O.C.G.A. § 36-92-2(a).
50. O.C.G.A. § 33-24-51 (2022).
51. O.C.G.A. § 33-24-51(a) (2022).
52. *See* O.C.G.A. §§ 36-92-2(d)(1)–(3) (2022).
53. *Atlantic II*, 313 Ga. at 299, 869 S.E.2d at 496.
54. *Id.* at 299–300, 869 S.E.2d at 496–97.
55. *Id.* at 300, 869 S.E.2d at 497.

§ 36-92-2 became effective.[56] The court held that the enactment of O.C.G.A. § 36-92-2 only changed the analysis of a local government's waiver of sovereign immunity for losses up to the $500,000/$700,000 automatic waiver provided by statute.[57] Accordingly, the analysis for claims seeking damages in excess of the $500,000/$700,000 automatic waiver was substantively the same as it was prior to 2005.[58] Thus, the analysis of whether a local government's sovereign immunity has been waived in excess of the statutory waiver necessarily depends on whether the local government maintains a liability insurance policy in excess of $500,000/$700,000, and whether such policy covers the type of loss that is being claimed.[59] The court reasoned that this logic was fundamentally sound given that insurance, by its very nature, is a contract in which an insurer contemplates the exact kind of losses for which it will indemnify an insured for.[60] Accordingly, the Supreme Court of Georgia reasoned that the Georgia Court of Appeals erroneously interpretated O.C.G.A. § 36-92-2(d)(3) by failing to consider whether the loss claimed by the decedents against the City was covered under the Atlantic Specialty policy.[61]

Next, the court considered whether the Georgia Court of Appeals was correct in its assertion that Atlantic Specialty "attempted to contract around the legislature's clear intent to increase compensation for those who sustain injuries arising out of the use of a government vehicle," by including a provision in the insurance policy that stated it had no duty to pay unless the defense of sovereign immunity was not available to the insured.[62] The Supreme Court of Georgia disagreed with the Georgia Court of Appeals' interpretation of the General Assembly's "clear intent" when enacting O.C.G.A. § 36-92-2, reasoning that the General Assembly's "clear intent" was to waive immunity automatically up to a specified limit.[63] Further, the Supreme Court of Georgia observed that it was also the General Assembly's intent to give local government entities the discretion to decide whether to purchase insurance in excess of the automatic waiver.[64] Finally, the court recognized that it was not against

56. *Id.*
57. *Id.*
58. *Id.*
59. *Id.*
60. *Id.* at 301, 869 S.E.2d at 497.
61. *Id.* at 300, 869 S.E.2d at 497.
62. *Id.* at 301–02, 869 S.E.2d at 498.
63. *Id.* at 302, 869 S.E.2d at 498.
64. *Id.*

public policy for a local government to use its discretion to decline to purchase liability insurance. Accordingly, because Atlantic Specialty never argued that the subject insurance policy's provisions allowed the City to avoid the automatic waiver, and because of the broad discretion that the General Assembly grants local governments in their decisions to purchase insurance, the provision in the Atlantic Specialty Policy did not violate public policy.[65]

Finally, the court assessed whether Atlantic Specialty provided more than $700,000 in coverage for the decedents' claim against the City, as all parties conceded that the subject insurance contract provided at least $700,000 in coverage.[66] The court examined the provision, and found that under its plain reading, the City's insurance policy did not cover claims in which the defense of sovereign immunity applies.[67] Further, the court recognized that this provision did not make the policy limits of the subject policy meaningless.[68] For instance, as the court pointed out, claims brought under 42 U.S.C. § 1983[69] would not be subject to the defense of sovereign immunity, thus the full liability limit would apply.[70]

Ultimately, for the foregoing reasons, the Supreme Court of Georgia unanimously held that the applicable liability limit in the decedents' case collectively was $700,000, reversing the decision of the Georgia Court of Appeals.[71]

V. IMPLICATIONS

While the Supreme Court of Georiga's rationale in *Atlantic II* was sound within the framework of its statutory analysis, the case nonetheless resulted in an undesirable outcome that is concerning for the public at large.

A. Insurers Adopting Similar Policy Provisions

Following this decision, no consequence is more foreseeable than other insurance companies who provide automobile liability coverage for local governments will follow Atlantic Specialty's lead in including provisions or endorsements in those policies excluding the payment of claims for

65. *Id.*
66. *Id.* at 302–03, 869 S.E.2d at 498.
67. *Id.* at 303, 869 S.E.2d at 498–99.
68. *Id.*
69. 42 U.S.C. § 1983.
70. *Atlantic II*, 313 Ga. at 303, 869 S.E.2d at 498–99.
71. *Id.* at 305, 869 S.E.2d at 500.

which the defense of sovereign immunity is applicable. Once such provisions become commonplace, plaintiffs alleging claims against local governments for their employees' negligent or reckless operation of motor vehicles will almost certainly be limited to O.C.G.A. § 36-92-2's $500,000 and $700,000 limits. While this amount is seemingly a large sum of money, many cases will arise in which plaintiffs will, over time, be increasingly undercompensated, as *Atlantic II* illustrates.

In the past fifteen years since the last limits change of O.C.G.A. § 36-92-2(a) took effect, the buying power in the U.S. market for $500,000 and $700,000 has decreased to $297,436.10 and $416,410.55, respectively.[72] Without legislative amendment, this number will become less and less adequate. Putting aside that most people would not value the life of a single loved one as low as $700,000 (much less the loss of three loved ones such as in *Atlantic II*), O.C.G.A. § 36-92-2's current limits will not even fully compensate a plaintiff sustaining non-fatal significant injuries. Under the current scheme, an individual who sustains significant injuries by a local government's negligent or reckless operation of a vehicle may be limited to $500,000, however, it is not uncommon for an individual to incur close to this amount in medical bills alone following a significant collision.

B. Bad Faith and Uninsured Municipalities

Another looming question following the *Atlantic II* decision is whether there are appropriate checks in place to ensure that uninsured municipalities will negotiate settlement agreements in good faith when presented with a legitimate automobile negligence claim.

O.C.G.A. § 33-4-6 statutorily imposes liability upon insurers who deny insureds' claims in bad faith.[73] In turn, insurers operating in the state have a strong incentive to fairly evaluate claims and quickly pay legitimate claims that meet or exceed applicable policy limits. Otherwise, the insurer could be subject to additional damages up to 50% of the applicable policy limits and reasonable attorney's fees when a court finds bad faith.[74]

O.C.G.A. § 33-4-6 will certainly apply to insurance companies who insure municipalities, but a problem may arise when a municipality chooses not to purchase liability insurance, since there is not a similar

72. *See* U.S. Bureau of Labor Statistics, *CPI Inflation Calculator*, BLS.GOV, https://www.bls.gov/data/inflation_calculator.htm [https://perma.cc/VS3Y-8GG8] (last visited Nov. 16, 2022).

73. O.C.G.A. § 33-4-6 (2023).

74. *See* O.C.G.A. § 33-4-6(a).

statutory provision imposing a duty of good faith on municipalities for the negotiation of uninsured claims. While it may be pessimistic to assume that a municipality will deny a legitimate claim in bad faith, there is a compelling municipality interest in protecting its treasury by settling claims against it as inexpensively as possible. Conversely, an injured party has a compelling interest to quickly settle their potential claim without undergoing a lengthy litigation process, as often the injured party's employment can be disrupted or ended due to injury. While the injured party is waiting for the settlement of their claim, they are still faced with the cost of living and medical treatment for their injuries. Uninsured municipalities will not be oblivious to this fact.

In turn, because injured parties have a desire to quickly resolve their claims, municipalities may use time to pressure these injured parties into settling cases below their true value. Further, the municipalities may be able to do this with no consequences. At worst, under the current scheme, the case proceeds to trial, and the municipality is only exposed to a verdict equal to the automatic statutory waiver, plus the incidental costs of litigation. At best, the municipality settles a desperate plaintiff's claim well below the automatic waiver. Of course, it is the injured party who pays the price.

C. Uninsured Municipalities' Potential Exposure to Multiple Claims

Another concerning question following the *Atlantic II* case is: what will happen if an uninsured municipality with weak financials is exposed to multiple significant claims stemming from their negligent use of automobiles in a short timeframe?

Georgia, like all states, imposes a duty on owners and operators of motor vehicles to maintain a minimum level of liability insurance coverage.[75] The primary reason states impose minimum automobile liability insurance requirements is because of the fear that the average driver does not have sufficient monetary funds to compensate an injured party caused by the driver's negligent use of an automobile. With a minimum liability insurance requirement in place, there is a level of assurance shared by drivers in the state that there will be some funds available to collect when injured by a negligent driver. Of course, drivers are allowed to purchase insurance in excess of the minimum requirement depending on the assets the individual desires to protect, as well as the individual's ability to afford a more expensive premium.

75. O.C.G.A. § 33-34-4 (2022).

Unsuprisingly, cities and municipalities use automobiles much like people and businesses. Like people and businesses, there is a great financial disparity between the various cities and municipalities throughout the state. Urban cities within the state may have no problem paying a few million dollars out of their treasury to cover claims arising out of their use of automobiles, but the problem arises in more rural municipalities with weaker financials and a smaller treasury. In municipalities with smaller treasuries, receiving a single adverse judgement of $700,000 could be detrimental to the municipality if it is already operating a thin margin. Multiple adverse judgments could be catastrophic. Not only can this exposure deplete a municipality's treasury to the point of bankruptcy, which could leave an injured party totally uncompensated, but also the money spent paying these judgments would be much better served being invested back into the municipality's infrastructure such as their schools and hospitals.

It cannot be the best public policy for the state to allow municipalities to have such a level of exposure to their treasuries. The citizens of an uninsured municipality ultimately pay the price when money from their municipality's treasury that could otherwise go towards improving their public works is spent paying judgments against it from its failure to protect its assets by purchasing liability insurance.

D. Conclusion

Perhaps the underlying root of these problems, as the court alluded to in *Atlantic II*, is that the current scheme is not set up to provide full compensation to injured parties. Further, the current scheme still does not require local governments to purchase liability insurance—the very issue that the court in *Cameron* urged the legislature to address. Consumers and businesses alike are required to purchase liability insurance in the state to protect the public's right to be compensated from the negligent use of automobiles by others. While the state imposes statutory minimum liability requirements for various types of insureds, drivers commonly purchase policies in excess of the minimum amounts to ensure the protection of their personal assets. Local governments should be no different. Seemingly, it would make sense to do away with automatic waivers of sovereign immunity, and the Georgia legislature should impose an insurance requirement on local governments including a statutory minimum limit requirement.

There is no perfect scheme in place to protect the competing interests of local governments, insurance companies, and injured parties. Despite a sensible recommendation to the Georgia legislature in *Cameron*, which would have put local governments in simply the same positions as all

other drivers on the road, the Georgia legislature went another direction. Georgia citizens pay the price.