

IN THE SUPREME COURT  
STATE OF GEORGIA

CASE NO. S16C0750

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SIX FLAGS OVER GEORGIA II, L.P. and  
SIX FLAGS OVER GEORGIA LLC,

Petitioners,

v.

JOSHUA MARTIN,

Respondent.

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AMICUS CURIAE BRIEF OF THE  
GEORGIA DEFENSE LAWYERS ASSOCIATION

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IN THE SUPREME COURT  
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SIX FLAGS OVER GEORGIA II, L.P.  
and SIX FLAGS OVER GEORGIA  
LLC,

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JOSHUA MARTIN,

Respondent.

AMICUS CURIAE BRIEF OF  
THE GEORGIA DEFENSE LAWYERS ASSOCIATION

COMES NOW the Georgia Defense Lawyers Association (“GDLA”) and files this Brief as *amicus curiae* in the above-styled appeal, showing this honorable Court as follows:

I. STATEMENT OF INTEREST

The GDLA is an association of more than 860 Georgia lawyers, including sole practitioners and members of law firms of all sizes, who engage in litigation, primarily for defendants in civil lawsuits. The GDLA is dedicated to, among other purposes, supporting and improving the civil defense bar, improving the adversary system of jurisprudence in our courts, eliminating court congestion and delay in litigation, and otherwise promoting improvements in the administration of justice.

The GDLA and its members are interested in ensuring that basic principles of premises liability are clearly defined and uniformly applied. Property owners, occupiers, and proprietors throughout the state should be held liable when they knowingly subject invitees to hazards on the premises. This duty should not be unreasonably expanded, however, by holding property owners and occupiers liable for intentional, criminal acts committed by third parties on someone else's property.

Indeed, anyone who owns real property or operates a business in Georgia is entitled to know precisely what constitutes an "approach" to his property under Georgia law. Ensuring that all owners and occupiers of property within Georgia are subjected to the same requirements as to what constitutes an "approach" under Georgia law and what steps are required under O.C.G.A. § 51-3-1 with respect to such an approach are of key importance to all land owners, occupiers, or proprietors. All persons and business are entitled to know the precise circumstances under which an owner or occupier of property may be subjected to an eight-figure jury verdict for a criminal act by third parties committed on someone else's property. Finally, all citizens of Georgia and civil litigants involved in cases in this state have an interest in ensuring fair and reasonable results in civil cases. This necessarily requires that courts and juries do not misinterpret or misapply principles of premises liability law to render

defendants liable for premises and conditions they did not control and could not have controlled or for incidents they did not cause and could not have prevented.

As is true in the great majority of cases in this Court, the outcome of this case has broad implications. Through its decision in this case, the Court of Appeals has redefined “approach” to include property that is not owned by a defendant, is not managed or operated by the defendant, and is not contiguous to the defendant’s property. The extent and nature of tort liability imposed on property owners and occupiers must be fair, reasonable, and predictable—not just with respect to the types of acts or omissions that will result in such liability but also as to the specific location of the incident.

## II. ARGUMENT AND CITATION OF AUTHORITY

This case arises from an incident outside but in the vicinity of an amusement park owned and operated by the Petitioners. Respondent Martin was assaulted without apparent provocation by several individuals at a Cobb County Transit bus stop some 200 feet beyond Petitioners’ property.<sup>1</sup> Prior to trial, the trial court incorrectly interpreted the word “approaches” in O.C.G.A. § 51-3-1 as allowing a jury to determine that a property owner or occupier has a

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<sup>1</sup> R-1503. 4584; T-804, 815, 861, 976; *Six Flags Over Ga., L.P. v. Martin*, 335 Ga. App. 350, 370 (2015) (Andrews, P.J., dissenting).

duty to prevent third-party intentional, criminal acts at a bus stop about 200 feet away from the owner or occupier's property. The trial court then refused to apply the plain language of O.C.G.A. § 51-12-33 and, instead, precluded the jury from considering the fault of the nonparty criminal perpetrators in rendering its verdict.

The result was a rather large verdict returned against the Petitioners, from which they appealed. On appeal, the Court of Appeals affirmed the trial court's interpretation of "approaches" but reversed and remanded for a new trial due to the trial court's failure to apply the nonparty apportionment procedure mandated by O.C.G.A. § 51-12-33. The Petitioners have now petitioned this Court for *certiorari* regarding the Court of Appeals' determination that the bus stop constituted an "approach" where the Petitioners had a duty to prevent seemingly unprovoked and random third-party criminal acts.

This is an issue of great importance to owners and occupiers of real property of all sizes and uses throughout the state of Georgia. The unfairness and confusion that will result from the Court of Appeals' decision in this case is manifest in the verdict below, but it is also something that is likely to be repeated unless this Court intervenes. Because the definition of an "approach" to the Petitioners' property in this case is at odds with common sense, fairness, and prior precedent, this Court should grant *certiorari* and should reverse.

A. Whether a public bus stop on county-owned property that is not contiguous to the defendant's property and is used by persons not going to or returning from the defendant's property constitutes an "approach" under O.C.G.A. § 51-3-1 is a matter of great concern, gravity, and importance to the public, and the Court of Appeals' decision below creates confusion and unfairness not only to the Petitioners but to property owners and occupiers throughout Georgia.

The Supreme Court may review cases which present matters of "great concern, gravity, and importance to the public" and cases which create "confusion and unfairness."<sup>2</sup> Arguably, legal error in any case resulting in a verdict of tens of millions of dollars against a business owned or operated in Georgia is of great concern, gravity, and importance to the public. This case also, however, involves more fundamental questions of great importance to owners and occupiers of property throughout the state: specifically, how far away from a person's property can he be held liable for a criminal assault perpetrated by a third party, and what actions by a landowner or occupier will constitute sufficient "exercise of dominion" over someone else's property to render it an "approach" to the first owner or occupiers property?

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<sup>2</sup> *Sharp v. Dept. of Transportation*, 267 Ga. 267, 270 (1996); GA. S. CT. R. 40.

Furthermore, this case represents a continuation of a troubling trend in Georgia cases of converting property owners and proprietors into absolute insurers of the safety of invitees and licensees. Though Georgia law does not require property owners and proprietors to take affirmative steps to search for and eliminate all possible hazards on their premises, that is the duty that is now being argued by plaintiffs, being permitted by trial judges, and being applied by juries in many cases. The longstanding admonition by this Court that property owners and proprietors are not “insurers” of their invitees’ safety has become hollow and meaningless as that is exactly the standard to which they are held in many cases.

Perhaps in no other type of case has this metamorphosis been as striking as in cases involving third-party criminal acts. In recent years, plaintiffs have been increasingly successful in arguing that criminal assaults, rapes, and even murders are not the fault of the persons actually committing the heinous acts but, rather, are proximately caused by the failure of the unrelated owner or occupier of the property to stop the criminal perpetrators. Although the criminal perpetrator is undisputedly criminally liable, civil responsibility is allocated to the premises owner because he has the ability to pay. In this case, the imposition of such an incorrectly and unreasonably heightened duty on the Petitioners is reflected in the arguments made by Respondent at the trial below, the trial

judge's inexplicable refusal to follow clear Georgia law regarding apportionment of fault to nonparties, the ultimate verdict of the jury, and even the Court of Appeals' decision.

But the case below also involves another manner of unreasonably and impermissibly expanding and redefining the duty of property owners or proprietors by rendering them liable for criminal acts occurring wholly outside of their property. In this case, the Court of Appeals has imposed on Petitioners a duty to protect the Respondent from a criminal act committed by third parties on property owned not by the Petitioners but by Cobb County.<sup>3</sup> Thus, the rapidly disappearing distinction between the duty "to keep the premises and approaches safe" and serving as an insurer of invitees' safety has now been carried off the proprietor's property and extended to essentially any area that persons might use to access that property. Ignored by the Court of Appeals' decision in this case is this Court's explicit holding more than 20 years ago in *Motel Properties, Inc. v. Miller* that an "approach" may only include "the last few steps" taken by invitees generally as they enter the property.<sup>4</sup> With the decision of the Court of

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<sup>3</sup> At times in the case below, Martin alleged that the assault occurred on premises owned by Lanier, which owned and operated adjacent parking lots. See, e.g., R-1503, 1976-77; T-976. In any event, it is undisputed that Petitioners did not own the CCT bus stop. T-504.

<sup>4</sup> 263 Ga. 484, 486 (2) (1993).

Appeals below, there is essentially no logical limit to what may be considered an “approach” to a proprietor’s business—particularly if the business is large enough.<sup>5</sup>

And that, truthfully, may be in large part what this case is about: does Georgia law apply a different standard to property owners and businesses within the state based on their size or presumed revenue? Does the definition of “approach” change where the defendant, rather than operating a large amusement park, instead is the proprietor of a small, family-owned retail store? What if the defendant is a house of worship whose members regularly use the bus to attend religious services? The undersigned respectfully suggest that if the attack had occurred at a county-owned bus stop 200 feet away from a small hardware store or church, the definition of “approach” would have been interpreted far differently in this case (regardless of whether invitees were known to use the bus stop regularly).

According to the Court of Appeals’ opinion in this case, the answer to each of those questions is “yes.”<sup>6</sup> The undersigned respectfully contends, however,

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<sup>5</sup> See Martin, 335 Ga. App. at 359 (1) (expressly stating that the Court of Appeals applied a broader definition of “approach” to the Petitioners in this case because “unlike cases involving a single grocery store, restaurant, or motel, Six Flags is a 290-acre theme park with a high volume of patrons entering and exiting its premises (10,000 on a slow day)” (emphasis supplied)).

<sup>6</sup> *Id.*

that the extent to which a property owner or proprietor may be held liable for the criminal acts of others on someone else's property should be made clear and certainly should not vary because the business is large or its owner is presumed to have the ability to pay a large judgment. Accordingly, the undersigned respectfully submit that this Court should grant *certiorari* to consider and to determine whether, in this case, the Court of Appeals incorrectly applied the meaning of an "approach" to a person's real property, as contemplated by O.C.G.A. § 51-3-1.<sup>7</sup>

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<sup>7</sup> In Case no. S16C0743, Respondent Martin also petitioned this Court for *certiorari* regarding the Court of Appeals' decision. Martin contends that the Court of Appeals erred in reversing and remanding for a new trial due to the trial court's inexplicable refusal to permit the jury to consider the fault of—and apportion fault to—the nonparty criminal perpetrators who assaulted Martin. This was obvious error in light of the plain meaning and purpose of O.C.G.A. § 51-12-33 as well as this Court's decisions in *Couch v. Red Roof Inns, Inc.*, 291 Ga. 359 (1) (2012), *Zaldivar v. Prickett*, 297 Ga. 589 (1) (2015), and *Walker v. Tensor Machinery, Ltd.*, 298 Ga. 297 (2015). The error cannot be presumed harmless given the importance of the substantive right and the fact that placement of additional nonparties on the verdict form would have reduced the amount of the verdict in proportion to the nonparties' fault. The absolute right and entitlement of defendants in tort cases to seek apportionment of fault to nonparties was discussed, reaffirmed, and outlined in great detail by this Court very recently in *Zaldivar* and *Walker*. Accordingly, should the Court decide not to grant *certiorari* in this case, the undersigned respectfully submit that Case no. S16C0743 does not present an issue of substantial importance warranting the grant of *certiorari* by this Court. See *Todd v. Dekle*, 240 Ga. 842, 843 (1978) (holding that "an assignment of error complaining that the judgment of [the Court of Appeals] is incorrect" does not set forth a basis for this Court to grant *certiorari*). See also GA. SUP. CT. R. 40; Atlanta Coca-Cola Bottling Co. v. Jones, 236 Ga. 448, 452 (1976) (Hall, J., dissenting).

**B. The trial court and the Court of Appeals incorrectly held that a CCT bus stop could be deemed to be an “approach” at which Petitioners could be liable for the intentional, criminal acts of third parties.**

Premises liability in Georgia is based on the principle that an owner or occupier of land should not knowingly expose persons entering onto the property to hazards on the property. “Where an owner or occupier of land, by express or implied invitation, induces or leads others to come upon his premises for any lawful purpose, he is liable in damages to such persons for injuries caused by his failure to exercise ordinary care in keeping the premises and approaches safe.”<sup>8</sup> The owner or occupier is “not an insurer of the invitee’s safety” and, instead, “is required to exercise ordinary care to protect the invitee from unreasonable risks of harm of which the owner/occupier has superior knowledge.”<sup>9</sup> “The owner/occupier is not required to warrant the safety of all persons from all things, but to exercise the diligence toward making the premises safe that a good business person is accustomed to use in such matters.”<sup>10</sup>

Georgia’s appellate courts have held that a third-party’s criminal act may constitute a “risk of harm” for which an owner or occupier of land may be liable,

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<sup>8</sup> O.C.G.A. § 51-3-1.

<sup>9</sup> *Robinson v. Kroger Co.*, 268 Ga. 735, 740 (1) (1997), citing *Lau's Corp. v. Haskins*, 261 Ga. 491 (1) (1991).

<sup>10</sup> *Id.*, citing *Alterman Foods, Inc. v. Ligon*, 246 Ga. 620, 624 (1980).

but only if the owner or occupier is shown to have had superior knowledge that the criminal act would occur.<sup>11</sup> “[W]ithout foreseeability that a criminal act will occur, no duty on the part of the proprietor to exercise ordinary care to prevent that act arises.”<sup>12</sup> Foreseeability of the criminal act may be shown through evidence that the owner or occupier had knowledge of prior “substantially similar” criminal acts.<sup>13</sup>

This Court first defined the physical scope of “approaches,” as used in O.C.G.A. § 51-3-1, in the 1993 case of *Motel Properties, Inc. v. Miller*:

We construe “approaches” to mean that property **directly contiguous, adjacent to, and touching** those entryways to premises under the control of an owner or occupier of land, through which the owner or occupier, by express or implied invitation, has induced or led others to come upon his premises for any lawful purpose, and through which such owner or occupier could foresee a reasonable invitee would find it necessary or convenient to traverse while entering or exiting in the course of the business for which the invitation was extended. By “contiguous, adjacent to, and touching,” **we mean that property within the last few steps taken by invitees**, as opposed to “mere pedestrians,” as they enter or exit the premises.<sup>14</sup>

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<sup>11</sup> *Days Inns of Am., Inc. v. Matt*, 265 Ga. 235, 235-36 (1995)

<sup>12</sup> *Id.*, citing *Lau’s Corp.*, 261 Ga. at 493 (1).

<sup>13</sup> See *Doe v. Prudential-Bache/A.G. Spanos Realty Partners, L.P.*, 268 Ga. 604 (1997); *Sturbridge Partners, Ltd. v. Walker*, 267 Ga. 785 (1997).

<sup>14</sup> 263 Ga. 484, 486 (2) (1993) (internal citations omitted).

The Court went on to specifically emphasize that “[i]t is only within the confines of this limited approach that [Georgia law] imposes a duty on a landowner to exercise ordinary care over property not within the landowner's control.”<sup>15</sup>

The Court did identify an exception to the general definition of an “approach” for those circumstances in which a “landowner extended the approach to his premises by some positive action on his part, such as constructing a sidewalk, ramp, or other direct approach.”<sup>16</sup> But the Court also cautioned that “a landowner’s positive exercise of dominion over a public way or another’s property is necessary in order to avoid imposing upon inviters an unknowable and impossible burden for maintaining an undefined circumference of properties.”<sup>17</sup>

The attack at issue in this case occurred at the Cobb County Transit bus stop, about 200 feet from the nearest portion of the Petitioners’ property.<sup>18</sup> Prior to the attack, Respondent and two friends had left Six Flags and walked about

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<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 486 (3) (internal quotations omitted), quoting *Elmore of Embury Hills, Inc. v. Porcher*, 124 Ga. App. 418 (1971).

<sup>17</sup> *Id.* at 486 (3), n. 6.

<sup>18</sup> R–815, 819, 826, 975-76, 1438, 1503, 1583, 4584; Petitioners’ Reply to Respondent’s Opposition to Petition for Writ of *Certiorari* at 4-6.

200 feet down a public street.<sup>19</sup> They then walked down another public street to a motel (which was not owned or operated by the Petitioners) to use the restroom there.<sup>20</sup> Finally, Respondent and his friends walked back up a public street to the CCT bus stop to wait for the bus, at which time he was attacked.<sup>21</sup> Neither the bus stop itself nor the CCT bus line that served the bus stop was owned or operated by the Petitioners, and the bus stop served businesses other than the amusement park.<sup>22</sup>

Nonetheless, Respondent contends that the Petitioners converted the CCT bus stop into an “approach” to Petitioners’ amusement park. In particular, there was evidence at the trial below that the Petitioners used barricades and signs to direct pedestrian and vehicular traffic along Six Flags Parkway adjacent to the bus stop; worked with Cobb County to cut grass and pick up trash to maintain the appearance of the road and adjacent public property; and sometimes had its own employees as well as Cobb County police officers direct traffic on roads leading to the amusement park.<sup>23</sup> None of those things, however, amounts to

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<sup>19</sup> T – 802-03, 861.

<sup>20</sup> *Id.*

<sup>21</sup> T – 804, 815, 861, 976.

<sup>22</sup> T – 504, 536-37, 803, 861.

<sup>23</sup> R – 4541-73, 4584; *Martin*, 335 Ga. App. at 377 (Andrews, P.J., dissenting).

Petitioners asserting dominion over anything, much less over the CCT bus stop. Making it easier or more aesthetically pleasing for invitees to use an existing road simply is not the same as building a sidewalk or similar means of access to one's property. And regardless, at the very most, this evidence could only render the road itself an "approach" to the amusement park—there remains a conceptual (and physical) distance from any assertion of dominion over the CCT bus stop itself, which would be required to render the bus stop an "approach" to the amusement park.

The types of "exceptions" identified by this Court in *Motel Properties* as to when the physical extent of an "approach" may be expanded clearly contemplate a situation in which a property owner has created a method for invitees to access his property or, at the very least, has redirected invitees from one potential entrance or approach to another. Under the Court of Appeals' decision in this case, a property owner, by taking any action at all with respect to noncontiguous property, will render it an "approach" for all potential hazards.

Nothing in the rationale or holding of *Motel Properties, Inc. v. Miller* supports the imposition of a duty on an owner or occupier to prevent spontaneous third-party criminal acts at a bus stop some 200 feet away from the owner/occupier's property—nor would it be reasonable to do so. Indeed, the specific location alleged to be an "approach" to the defendant's property in *Motel*

*Properties* is instructive here. In that case, the plaintiff had fallen on a patch of rip-rap along the shoreline while attempting to walk from the defendant's motel to take a late-night walk on the beach.<sup>24</sup> The plaintiff reached the area where he fell by walking along a sidewalk that began at the motel's lobby and ran 200 feet toward the rip-rap.<sup>25</sup> The plaintiff then walked some 27 feet beyond the end of the sidewalk before falling and injuring himself.<sup>26</sup> The location where the plaintiff fell was approximately 196 feet from the edge of the property occupied by the defendant motel.<sup>27</sup>

Given those facts, this Court held that even assuming, without deciding, that the sidewalk constituted an "approach," the motel operator still could not be held liable for an injury occurring 27 feet away from the end of the sidewalk:

No exception to the contiguous approach definition applies in this case because even assuming, *arguendo*, that the sidewalk past the motel's property constituted an extension of the approach to the motel, it is uncontroverted Miller's fall did not occur on the sidewalk but instead occurred on rocks some 27 feet past the end of the sidewalk at a location over which the motel exercised no positive control. **We reject the argument that the duty imposed on owners**

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<sup>24</sup> *Motel Properties*, 263 Ga. at 484-85 (1).

<sup>25</sup> *Id.* at 484 (1).

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at 486 (4).

**and occupiers of land by O.C.G.A. § 51-3-1 extends to what at best is an approach to an approach.**<sup>28</sup>

That is precisely what the Court of Appeals has done in the instant case—the Petitioners have been subjected to liability for a criminal act perpetrated by third parties at a bus stop that “at best is an approach to an approach.” Furthermore, it is respectfully submitted that the facts of this case cannot be what was contemplated by this Court when it used the phrase “a positive exercise of dominion over a public way or another’s property” in *Motel Properties*. The majority opinion in that case was relatively clear that a landowner may increase the physical extent of an “approach” to his property by taking affirmative steps to create a way across someone else’s property to allow invitees to access the landowner’s property. Conceptually, this makes sense, since it would be unfair to allow a landowner to assert dominion and the right to use another’s property for the property owner’s own benefit while not imposing a corresponding duty on the landowner to persons he invites to use that area.

There must be reasonable limits on the distance and scope to which such an assumed duty under O.C.G.A. § 51-3-1 can extend. This Court recognized those limitations in *Motel Properties*, and the Court of Appeals has done the same

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<sup>28</sup> *Id.* at 487 (4). The fact that the area at issue in *Motel Properties* would only appear likely to be used as an exit from the defendant’s property, rather than to enter it, is irrelevant since in both cases, the plaintiff was using the alleged “approach” to exit the defendant’s premises. See *Id.* at 484 (1).

in cases such as *Harris v. Inn of Lake City*, in which a pair of hotel guests fell into a tide pool after traversing a set of steps in walking from their hotel to the beach.<sup>29</sup> The Court of Appeals held in *Harris* that the steps, which were on county property, did not constitute an “approach” to the hotel’s property even though the hotel’s front desk staff directed the plaintiffs to take that route to the beach.<sup>30</sup> The Court of Appeals also has held at least twice, including one case involving a third-party criminal assault, that “an approach to a grocery store includes the sidewalk immediately in front of and adjacent to the premises, but it does not include the landlord owned and maintained parking lot adjacent to the sidewalk.”<sup>31</sup>

Similarly, in *Rischack v. City of Perry*,<sup>32</sup> another *en banc* Court of Appeals opinion, the plaintiff fell while traversing a city-owned strip of grass between the driveway of a hotel and a city street where the plaintiff’s husband had parked their car. The Court of Appeals held that the city-owned property could not be considered an “approach” to the hotel notwithstanding that “the hotel voluntarily performed all routine aesthetic work such as mowing the grass and

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<sup>29</sup> 285 Ga. App. 521 (1) (2007).

<sup>30</sup> *Id.* at 522-23 (1).

<sup>31</sup> *Drayton v. Kroger Co.*, 297 Ga. App. 484, 485 (2009); *Food Lion, Inc. v. Isaac*, 261 Ga. App. 311, 313 (2003) (*en banc*).

<sup>32</sup> 223 Ga. App. 856, 856 (1996).

sweeping the sidewalk in the area where [the plaintiff] fell.”<sup>33</sup> Expressly relying on this Court’s decision in *Motel Properties*, the Court of Appeals held in *Rischack* that “because the undisputed evidence showed that the portion of the grass strip where [the plaintiff] fell was not contiguous and [was] more than a few steps from the hotel driveway, such property did not meet this definition of ‘approach.’”<sup>34</sup> Since “[t]he property where [the plaintiff] fell was not directly contiguous to the hotel property,” it could not be deemed an “approach,” despite the fact that the plaintiff “accessed the sidewalk by walking across the grass strip does not make the grass strip part of the approach.”<sup>35</sup> If one were to accept that manner of reasoning, the Court of Appeals aptly noted in that case, “any property crossed to access an approach would also be deemed part of the approach.”<sup>36</sup>

The undersigned believe that the facts of this case render it analogous to the *Rischak*, *Harris*, and *Drayton* cases and the Court of Appeals should have reached a similar conclusion regarding the definition of “approach” in this case. Similarly, it appears that the Court of Appeals failed to follow this this Court’s

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<sup>33</sup> *Id.* (emphasis supplied).

<sup>34</sup> *Id.* at 858 (1).

<sup>35</sup> *Id.* at 857 (1).

<sup>36</sup> *Id.*

binding holding and guidance in *Motel Properties*. It appears that instead, the Court of Appeals has created a different rule for large amusement parks regarding what will constitute an “approach” for premises liability purposes. The undersigned respectfully submit that this is not a reasonable or permissible deviation from *Motel Properties* and that this Court should grant *certiorari* to say so. And in the alternative, if this Court sees *Motel Properties*, *Rischak*, *Harris*, and *Drayton* as distinguishable from the instant case, it would be of significant help to litigants and attorneys in the state if the Court granted *certiorari* to explain why.

### III. CONCLUSION

The trial court and the Court of Appeals erred in holding that a Cobb County Transit bus stop adjacent to a street leading to the Petitioners’ amusement park constituted an “approach” to the Petitioners’ amusement park under O.C.G.A. § 51-3-1. In doing so, the lower courts ignored binding precedent from this Court and from the Court of Appeals under which the bus stop did not constitute an “approach” to the amusement park. This incorrect holding is of great significance and importance in this case and to the citizens of Georgia in general due to the large amount of the verdict. Furthermore, the Court of Appeals’ decision in this case already has begun to cause confusion throughout the state regarding the definition of an “approach” to a persons’ property, since the decision appears to conflict with this Court’s prior precedent

as well as prior opinions of the Court of Appeals. This Court should grant *certiorari* to provide guidance not only to the parties of this case, but all other litigants, potential litigants, and attorneys in the state of Georgia as to what will constitute an approach and whether the answer differs based on the use of the property or the size or nature of any business on the property.

Respectfully submitted this 1<sup>st</sup> day of April, 2016.

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*On Behalf of the Georgia  
Defense Lawyers Association*

**CERTIFICATE OF SERVICE**

I hereby certify that I have this date served the foregoing **AMICUS CURIAE BRIEF OF THE GEORGIA DEFENSE LAWYERS ASSOCIATION** in the above-listed case on all parties via the Court's electronic filing system through their counsel below:

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