

2026 WL 1883060

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Court of Appeals of Georgia.

**BOARD OF REGENTS OF the  
UNIVERSITY SYSTEM OF GEORGIA**

v.

**GONYEA et al.**

A26A0594

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June 30, 2026

**Attorneys and Law Firms**

Ronald Steve Boyter Jr., Christopher Michael Carr, Atlanta, Zachary Walter Procter, Loretta L. Pinkston-Pope, Atlanta, Angela Ellen Cusimano, for Appellant.

Robert Barryowen Sullivan, Statesboro, Robert Barryowen O'Sullivan II, for Appellee.

**Opinion**

Doyle, Presiding Judge.

\*1 Tammy Gonyea sued the Board of Regents of the University System of Georgia (the “BOR”) based on injuries she sustained at the Georgia Southern University (“GSU”) golf course. The BOR moved to dismiss the complaint based on Gonyea's failure to comply with applicable ante litem notice requirements. Following a hearing, the trial court denied the motion to dismiss, and the BOR appeals, contending that the trial court erred by denying the motion to dismiss because Gonyea had not demonstrated strict compliance with applicable ante litem notice requirements. For the reasons that follow, we reverse.

“We review de novo a trial court's ruling on a motion to dismiss based on sovereign immunity grounds, which is a matter of law. However, factual findings by the trial court in support of its legal decision are sustained if there is [any] evidence authorizing them[.]” *Bing v. Taylor*, 362 Ga. App. 599, 600, 869 S.E.2d 548 (2022) (punctuation omitted). See *Dep't of Transp. v. Thompson*, 354 Ga. App. 200, 200, 840 S.E.2d 679 (2020); *Bd. of Regents of the Univ. System of Ga. v. Brooks*, 324 Ga. App. 15, 16 n.2, 749 S.E.2d 23 (2013).

So viewed, the record reflects that on March 29, 2018, Gonyea was injured after tripping on a door stopper and falling at the clubhouse of the GSU golf course. Counsel for Gonyea thereafter sent a letter of representation and spoliation notice to GSU's office of legal affairs. Geoffrey Carson responded on behalf of GSU and produced an incident report. Carson later sent Gonyea correspondence in which he provided a claim number and identified Jerome Wright as the adjuster assigned to the claim on behalf of the Georgia Department of Administrative Services (“DOAS”). Wright's contact information as provided indicated that he was a senior litigation specialist for Georgia Administrative Services (“GAS”), acting on behalf of DOAS. Wright's email address included a DOAS domain name and extension.

On September 26, 2018, Wright sent counsel for Gonyea a letter requesting additional information regarding her claim. The letter bore a DOAS file number and was written on DOAS letterhead, which included a return address for the Risk Management Division (“RMD”) of DOAS at 200 Piedmont Avenue SE, Suite 1208 W Tower, Atlanta, Georgia, 30334. The letter identified no other physical address associated with either Wright or the RMD of DOAS.

On October 2, 2018, Gonyea mailed an ante litem notice to Wright at 1775 Spectrum Drive, Lawrenceville, Georgia, 30043. Thereafter, Wright sent Gonyea an email in which he confirmed receipt of the ante litem notice, and Gonyea and Wright continued to correspond about the claim via email. On January 23, 2019, Gonyea mailed additional information about the incident in a second ante litem notice to Wright at the same Lawrenceville, Georgia, address.

On March 5, 2019, Wright sent counsel for Gonyea a letter in which he stated that the RMD of DOAS, on behalf of GSU, had investigated her claim and determined that neither GSU nor any other state agency was responsible for the incident, thus denying Gonyea's claim. The letter was written on DOAS letterhead and provided the same physical return address for the RMD of DOAS in Atlanta, Georgia, as did Wright's September 26, 2018 letter.

\*2 On August 1, 2019, Gonyea filed a complaint against the BOR, in which she asserted a claim for negligence, and her husband, Tim Gonyea, asserted a claim for loss of consortium. The BOR answered and moved to dismiss the lawsuit based on lack of subject matter jurisdiction and personal jurisdiction. Several years passed without the trial court ruling on the motion to dismiss, and on February

14, 2025, the trial court dismissed the lawsuit for want of prosecution.

On March 19, 2025, Gonyea filed a renewal action pursuant to [OCGA § 9-2-61\(a\)](#), in which she and her husband asserted the same claims as those included in the previous complaint. The BOR moved to dismiss the renewed lawsuit, asserting, among other things, that the trial court lacked subject matter jurisdiction because the complaint was barred by the Georgia Tort Claims Act (“GTCA”) on the basis of Gonyea’s failure to comply with the ante litem notice requirements of [OCGA § 50-21-26\(a\)\(2\)](#). Gonyea responded, arguing that her lawsuit was in compliance with the applicable ante litem notice requirements because “Wright’s correspondence had created the impression that he was an agent of [the] RMD [of] DOAS.”

After a hearing, the trial court denied the motion to dismiss, finding that “a reasonable person [would] understand that [Wright] was the appropriate recipient of the notices” based on his representations as a senior litigation specialist for GAS on behalf of DOAS, his correspondence with Gonyea on RMD DOAS letterhead, and his acknowledgment of receipt of both ante litem notices. The trial court further found that because there was no evidence that the BOR had been unable to investigate and attempt to settle the claim, any error in Gonyea’s submission of the ante litem notices to Wright was harmless. Accordingly, the trial court ruled that Gonyea had satisfied her obligations under the GTCA and that her ante litem notices were sent to the proper party. The BOR now appeals.

1. The BOR contends that the trial court erred by denying its motion to dismiss Gonyea’s complaint because she failed to comply with the ante litem notice requirements of [OCGA § 50-21-26](#). We agree.

The GTCA creates a limited waiver of sovereign immunity for certain tort claims against the State. To invoke the waiver, plaintiffs must comply with the ante litem notice provisions of the GTCA. If the ante litem notice requirements are not met, then the State does not waive sovereign immunity, and the trial court lacks subject matter jurisdiction. Further, strict compliance with the ante litem notice requirements is necessary, and substantial compliance is insufficient.

[Bing](#), 362 Ga. App. at 601-02(1), 869 S.E.2d 548 (citation modified).

[OCGA § 50-21-26](#) outlines the elements of the ante litem notice requirements, in relevant part:

(a) No person, firm, or corporation having a tort claim against the [S]tate under this article shall bring any action against the [S]tate upon such claim without first giving notice of the claim as follows: ...

(2) Notice of a claim shall be given in writing and shall be mailed by certified mail or statutory overnight delivery, return receipt requested, or delivered personally to and a receipt obtained from the [RMD] of [DOAS]. ...

(3) No action against the [S]tate under this article shall be commenced and the courts shall have no jurisdiction thereof unless and until a written notice of claim has been timely presented to the [S]tate as provided in this subsection[.]

Gonyea was not in strict compliance with [OCGA § 50-21-26\(a\)\(2\)](#) because she failed to send her ante litem notices to the correct location. See, e.g., [Bing](#), 362 Ga. App. at 603(1), 869 S.E.2d 548. [OCGA § 50-21-26\(a\)\(2\)](#) clearly provides that a plaintiff must mail her ante litem notice to the RMD of DOAS, which is located at 200 Piedmont Avenue SE, Suite 1804 W Tower, Atlanta, Georgia, 30334. Instead, Gonyea mailed both of her ante litem notices to 1775 Spectrum Drive, Lawrenceville, Georgia, 30043. “Therefore, by the plain language of [OCGA § 50-21-26\(a\)\(2\)](#), [Gonyea] did not strictly comply with the notice requirements of the Act.” [Welch v. Ga. Dep’t of Transp.](#), 276 Ga. App. 664, 665, 624 S.E.2d 177 (2005) (concluding that the plaintiff had failed to strictly comply with applicable ante litem notice requirements because he mailed his ante litem notice to the Commissioner of DOAS, rather than to the RMD of DOAS, as required by the statute). See [Bing](#), 362 Ga. App. at 603(1), 624 S.E.2d 177.

\*3 That counsel for Gonyea believed Wright to be the proper recipient of the ante litem notices does not avoid this conclusion. Wright never instructed Gonyea to send her ante litem notices to him or GAS. Indeed, the only address listed on Wright’s correspondence with Gonyea was that of the RMD of DOAS — 200 Piedmont Avenue SE, Suite 1208. Compare [Howard v. State](#), 226 Ga. App. 543, 544-45(1), 487 S.E.2d 112 (1997) (affirming the dismissal of a lawsuit based on the plaintiff’s failure to mail her ante litem notice to the RMD of DOAS under [OCGA § 50-21-26\(a\)\(2\)](#) despite evidence that an insurance agent with whom she was corresponding had “intimated the requisite notice should be sent to him at Mark

Adjustment Services, since he was ‘handling this matter of behalf of [DOAS]’ ”(emphasis omitted) (overruled on other grounds by *Dep’t of Pub. Safety v. Ragsdale*, 308 Ga. 210, 215 n.9, 839 S.E.2d 541 (2020)).

2. Likewise, the trial court's conclusion that Gonyea's actual notice to the State “satisfied her obligations” under the GTCA because her failure to strictly comply with OCGA § 50-21-26(a)(2) did not result in “prejudice” to the State is legally erroneous. This determination is based on language from *Cummings v. Ga. Dep’t of Juv. Justice*, 282 Ga. 822, 653 S.E.2d 729 (2007), holding that “[u]nless the State is prejudiced in some way in investigating and attempting to settle the claims, the purpose of the notice provision is not thwarted by accommodating the subsequent correction of such an error.” *Id.* at 827. *Cummings* applies to OCGA § 50-21-26(a)(5), which provides that an ante litem notice “shall state, to the extent of the claimant's knowledge and belief and as may be practicable under the circumstances, ... [t]he name of the state government entity, the acts or omissions of which are asserted as the basis of the claim[.]” See also *Cummings*, 282 Ga. at 825, 653 S.E.2d 729. While the ante litem notice provisions of OCGA § 50-21-26(a)(5) “clearly contemplate the possibility that a claimant may have imperfect information regarding various facets of her claim at the time her notice is submitted[.]” *id.*, the plain language of OCGA § 50-21-26(a)(2) admits of no such allowances. See *Howard*, 226 Ga. App. at 544(1), 487 S.E.2d 112 (“[T]he [GTCA] cannot be considered unclear or at all open-ended about the service aspect of its ante litem notice provision. In fact, [OCGA § 50-21-26(a)(2)] cannot get any

more specific; ante litem notice must be served upon the [RMD] of [DOAS.]”).

Thus, Gonyea's noncompliance with OCGA § 50-21-26(a)(2) cannot be excused by the fact that the RMD of DOAS “had notice of [her] claims and ample opportunity to investigate and settle those claims prior to the commencement of litigation.” See *Callaham v. Ga. Ports Auth.*, 337 Ga. App. 120, 786 S.E.2d 505 (2016) (“[T]he duty to strictly comply with th[e GTCA's] requirements cannot be excused on the basis of actual notice[.]”). See also *Douglas v. Dep’t of Juv. Justice*, 349 Ga. App. 10, 14(2), 825 S.E.2d 395 (2019) (“[T]he [State]’s knowledge of the injury and ensuing investigation d[oes] not obviate the [plaintiffs]’ clear statutory burden to establish a waiver of immunity by complying with the GTCA's ante litem notice requirement.”) (citing *Williams v. Ga. Dep’t of Transp.*, 275 Ga. App. 88, 91(1), 619 S.E.2d 763 (2005) (“The observation that the requisite state agencies had actual notice carries no weight, as this fact [is] irrelevant.”) (quotation marks omitted)).

Accordingly, the trial court erred by denying the State's motion to dismiss the complaint.

*Judgment reversed.*

Davis, J., and Senior Judge C. Andrew Fuller concur.

#### All Citations

--- S.E.2d ----, 2026 WL 1883060