IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF GEORGIA MACON DIVISION

MARY ANGELA MICHAEL and JEFFREY MICHAEL,)))
Plaintiffs,)))
v .))
HOUSTON COUNTY SCHOOL DISTRICT, RICK H. TRAN, SERGIO AVILA-MONTERO, and MELISSA GUZMAN,	ノ))))
Defendants.)

CIVIL ACTION NO. 5:15-CV-52 (MTT)

ORDER

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The Plaintiffs allege Defendant Rick Tran was driving a Houston County school bus when he slammed into the rear of a pickup truck, forcing it to slam into the rear of Plaintiff Mary Angela Michael's vehicle. (Doc. 1 at ¶ 9). Defendant Tran has moved to dismiss, arguing that he is entitled to official immunity because he was acting within the scope of his employment "when he committed the alleged negligent discretionary act(s)." (Doc. 9-1 at 3). Defendant Tran's alleged driving activities, however, are not the type of "discretionary acts" required to "invoke or compel or warrant the cloak of governmental immunity to insulate the activity from alleged actionable negligence." *Shuman v. Dyess*, 175 Ga. App. 213, 216, 333 S.E.2d 379, 383 (1985). Under Georgia law, they are "more properly characterized as ministerial." *Id.* at 216, 333 S.E.2d 38, 41-42 (1998). Therefore, the motion to dismiss (Doc. 9) is **DENIED**.

SO ORDERED, this 28th day of April, 2015.

<u>S/ Marc T. Treadwell</u> MARC T. TREADWELL UNITED STATES DISTRICT COURT