

[Cite as *Schialdone v. Ohio Dept. of Natural Resources*, 2017-Ohio-8084.]

CHRISTINE SCHIALDONE

Plaintiff

v.

OHIO DEPARTMENT OF NATURAL
RESOURCES

Defendant

Case No. 2017-00146-AD

Clerk Mark H. Reed

MEMORANDUM DECISION

{¶1} On February 13, 2017, Christine Schialdone (hereinafter “plaintiff”) filed an action against defendant Ohio Department of Natural Resources (hereinafter “ODNR”), alleging she suffered a personal injury on September 25, 2016 at the Malabar Farms State Park. In her complaint, plaintiff stated that she fell while walking to the Big House. She slid on gravel in the roadway and broke her leg, which required surgery to repair. Plaintiff claims that she incurred \$7,000.00 in damages, including medical copays of \$725 and lost wages of \$5,965.54.

{¶2} In an investigation report filed with the Court on April 13, 2017, ODNR asserted, among other defenses, that plaintiff’s claim was barred by Ohio law, in particular citing sections 1533.18 and 1533.181 of the Ohio Revised Code. These sections, when read together, stand for the proposition that ODNR owes no duty to a recreational user to keep park premises safe for entry and travel.

{¶3} While the Court is sympathetic to plaintiff’s injury, the Court finds that ODNR is correct on the application of the law to the facts in this case. Plaintiff is, under Ohio law, a recreational user. Her injury and loss occurred as a result of her use of ODNR’s premises, not by some direct or indirect act of negligence on the part of the state agency. The agency had no duty to this particular plaintiff to keep the park premises safe. If there is no duty, there cannot be a finding of negligence and thus no finding that the agency is liable for plaintiff’s loss. For this reason then, plaintiff’s claim must be denied.

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ENTRY OF ADMINISTRATIVE
DETERMINATION

Having considered all the evidence in the claim file, and for the reasons set forth in the memorandum decision filed concurrently herewith, judgment is rendered in favor of the defendant. Court costs shall be absorbed by the Court.

MARK H. REED
Clerk