

[Cite as *Fuciarelli v. Ohio State Patrol*, 2002-Ohio-4627.]

IN THE COURT OF CLAIMS OF OHIO

ALBERT J. FUCIARELLI	:	
34254 Marquette	:	
Westland, Michigan 48185-3551	:	Case No. 2002-03911-AD
Plaintiff	:	MEMORANDUM DECISION
v.	:	
OHIO STATE PATROL	:	
MARION POST	:	
Defendant	:	

: : : : : : : : : : : : : : : :

For Defendant:	Colonel Kenneth L. Morckel, Superintendent	
	Ohio State Highway Patrol	P.O.
Box 182074		
	Columbus, Ohio 43218-2074	
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FINDINGS OF FACT

{¶1} On March 13, 2002, at approximately 12:30 to 2:00 p.m., plaintiff, Albert J. Fuciarelli, was traveling on U.S. Route 23 in Marion County when he was stopped for a speeding violation by Trooper H.M. Collene, an employee of defendant, Ohio State Highway Patrol. Plaintiff asserted the front passenger door of his automobile was damaged by Trooper Collene while she was writing a speeding citation. Specifically, plaintiff alleged his car was damaged by Trooper Collene when she struck the passenger side door with a clipboard. Plaintiff related, "it was windy and she (Collene) went to grab her hat and hit the door with the clipboard." Plaintiff stated he asked Trooper Collene if she had hit the automobile door and she denied it. Subsequently, plaintiff stopped at a gas station south of Columbus and discovered a dent in

the door of his 2002 Ford Thunderbird. Consequently, plaintiff filed this complaint seeking to recover \$259.50, the cost of repairing the dent in his car door. Plaintiff contended he incurred these damages as a result of negligence on the part of defendant's employee.

{¶2} Defendant filed an investigation report denying any liability in this matter. Defendant submitted a statement from Trooper Collene who admitted she "bumped into the passenger side door" of plaintiff's automobile, but denied this physical contact with the vehicle caused any damage. Collene related she stepped away from plaintiff's car after the contact and looked at the door for damage. No damage was observed. Trooper Collene acknowledged plaintiff asked her if she had "just dented his door and I stated that I did not." Trooper Collene stated the traffic stop was then completed without further incident.

{¶3} Plaintiff filed a response insisting Trooper Collene caused the dent in his car by striking her clipboard against the car door at the same time she physically bumped into the vehicle. Plaintiff recalled the physical positioning of Trooper Collene from his perspective of sitting in the driver's seat of his automobile.

Plaintiff stated: "to my best recollection trooper Collene was standing at the passenger side door, her back was bent, her knees cracked, and her shoulders were square to the car. This would mean that most of her weight would be on the front of her feet. If she lost her balance she would tip forward towards the door."

#### CONCLUSIONS OF LAW

{¶4} Plaintiff has the burden of proving, by a preponderance of the evidence, that he suffered a loss and that this loss was proximately caused by defendant's negligence. *Barnum v. Ohio State University* (1977), 76-0368-AD. Plaintiff has failed to produce sufficient evidence to establish any act of defendant's employee caused the property damage to his vehicle. Plaintiff's claim is denied.

{¶5} Having considered all the evidence in the claim file and adopting the memorandum decision concurrently herewith;

{¶6} IT IS ORDERED THAT:

{¶7} 1) Plaintiff's claim is DENIED and judgment is rendered in favor of defendant;

{¶8} 2) The court shall absorb the court costs of this case in excess of the filing fee.

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DANIEL R. BORCHERT  
Deputy Clerk

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