

[Cite as *Alfrey v. Ohio Dept. of Transp.*, 2003-Ohio-1318.]

IN THE COURT OF CLAIMS OF OHIO

BILLY RAY ALFREY :  
13352 S. Telegraph Road :  
Flat Rock, Michigan 48134 : Case No. 2002-10160-AD  
  
Plaintiff : MEMORANDUM DECISION  
  
v. :  
  
DEPARTMENT OF TRANSPORTATION :  
  
Defendant :

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

For Defendant: Gordon Proctor, Director  
Department of Transportation  
1980 West Broad Street  
Columbus, Ohio 43223  
: : : : : : : : : : : : : : :

FINDINGS OF FACT

{¶1} 1) On November 8, 2002, plaintiff, Billy Ray Alfrey, was traveling north on Interstate 280, where Interstate 280 crosses the Front Street overpass in Lucas County, when a piece of concrete structure fell from a bridge above the roadway and struck the windshield of plaintiff's truck. Plaintiff explained the softball sized concrete object spalled from the bridge structure onto his vehicle. Plaintiff filed this complaint seeking to recover \$564.49, the cost of a replacement windshield, plus \$25.00 for filing fee reimbursement. Plaintiff has contended his property damage was proximately caused by the negligence of defendant, Department of Transportation, in maintaining the bridge spanning Interstate 280.

{¶2} 2) Defendant has denied any liability in this matter. Defendant has argued plaintiff failed to produce sufficient

evidence to establish the damage to his vehicle was the result of any negligent maintenance on the part of the Department of Transportation. Defendant asserted plaintiff has failed to ascertain the origin of the damage-causing object which struck his truck. Defendant denied the object which struck plaintiff's vehicle was part of the structure of an overpass bridge. Defendant indicated its inspector examined the bridge in the particular area of Interstate 280 and did not discern any defects in the structures. Defendant suggested the object which struck plaintiff's truck could have fallen from a passing vehicle on the bridge. The trier of fact does not find defendant's assertions particularly persuasive. The trier of fact finds the object which struck plaintiff's vehicle in all probability fell from an overhead bridge structure under defendant's control.

{¶3} 3) Plaintiff filed a response.

#### CONCLUSIONS OF LAW

{¶4} 1) Defendant has the duty to keep roads in a safe, drivable condition. *Amica Mutual v. Dept. of Transportation* (1982), 81-02289-AD.

{¶5} 2) This court has previously held defendant liable for property loss resulting from falling debris. *Elsey v. Department of Transportation* (1989), 89-05775-AD.

{¶6} 3) Plaintiff has proven, by a preponderance of the evidence, he sustained property damage as a result of defendant's negligence in maintaining a defective bridge. *Rini v. ODOT* (1997), 97-05649-AD. Defendant is liable to plaintiff in the amount of \$564.49, plus the \$25.00 filing fee, which may be reimbursed as compensable damages pursuant to the holding in *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19.

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

{¶8} IT IS ORDERED THAT:

{¶9} 1) Plaintiff's claim is GRANTED and judgment is rendered in favor of the plaintiff;

{¶10} 2) Defendant (Department of Transportation) pay plaintiff (Billy Ray Alfrey) \$589.49 and such interest as is allowed by law;

{¶11} 3) Court costs are assessed against defendant.

DANIEL R. BORCHERT  
Deputy Clerk

RDK/laa  
2/21  
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