

[Cite as *Meier v. Ohio Dept. of Transp.*, 2003-Ohio-2167.]

IN THE COURT OF CLAIMS OF OHIO

REGINA R. MEIER	:	Case No. 2002-10054-AD
Plaintiff	:	MEMORANDUM DECISION
v.	:	
OHIO DEPARTMENT OF TRANSPORTATION	:	
Defendant	:	

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FINDINGS OF FACT

{¶1} 1) On October 25, 2002, plaintiff, Regina R. Meier, was traveling east on Interstate 480 about 500 feet west of the East 98th Street exit in Cuyahoga County when a preceding motorist driving a pickup truck struck a piece of metal debris lying on the roadway propelling the debris into the path of plaintiff's vehicle. The flying metal debris struck the front of plaintiff's car causing substantial body damage.

{¶2} 2) Plaintiff filed this complaint seeking to recover \$1,401.44, the cost of automotive repair. Plaintiff implied she incurred these damages as a result of negligence on the part of defendant, Department of Transportation, in maintaining the roadway. Plaintiff submitted the filing fee with the complaint.

{¶3} 3) Defendant has denied liability for plaintiff's damage. Defendant denied having any knowledge of the debris condition prior to plaintiff's incident. Plaintiff has failed to produce any evidence establishing the length of time the debris condition was on the roadway prior to her property damage occurrence.

CONCLUSIONS OF LAW

{¶4} Defendant has the duty to maintain its highway in a reasonably safe condition for the motoring public. *Knickel v. Ohio Department of Transportation* (1976), 49 Ohio App. 2d 335. However, defendant is not an insurer of the safety of its highways. See *Kniskern v. Township of Somerford* (1996), 112 Ohio App. 3d 189; *Rhodus v. Ohio Dept. of Transp.* (1990), 67 Ohio App. 3d 723.

{¶5} In order to recover in any suit involving injury proximately caused by roadway conditions including debris, plaintiff must prove either: 1) defendant had actual or constructive notice of the debris and failed to respond in a reasonable time or responded in a negligent manner, or 2) that defendant, in a general sense, maintains its highways negligently. *Denis v. Department of Transportation* (1976), 75-0287-AD.

{¶6} Defendant is only liable for roadway conditions of which it has notice, but fails to reasonably correct. *Bussard v. Dept. of Transp.* (1986), 31 Ohio Misc. 2d 1.

{¶7} Plaintiff has not produced any evidence to indicate the length of time the debris condition was present on the roadway prior to the incident forming the basis of this claim. No evidence has been submitted to show defendant had actual notice of the debris. Additionally, the trier of fact is precluded from making an inference of defendant's constructive notice, unless evidence is presented in respect to the time the defective condition developed.

Spires v. Highway Department (1988), 61 Ohio Misc. 2d 262. There is no indication defendant had constructive notice of the debris. Finally, plaintiff has not produced any evidence to infer defendant, in a general sense, maintains its highways negligently or that defendant's acts caused the defective condition. *Herlihy v. Ohio Department of Transportation* (1999), 99-07011-AD. Therefore, defendant is not liable for any damage plaintiff may have suffered from the roadway debris.

{¶8} Having considered all the evidence in the claim file and

adopting the memorandum decision concurrently herewith;

{¶9} IT IS ORDERED THAT:

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

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

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Regina R. Meier Plaintiff, Pro se.
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RDK/laa
3/26
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