

[Cite as *Ryan v. Ohio Dept. of Transp.*, 2003-Ohio-2269.]

IN THE COURT OF CLAIMS OF OHIO

AMANDA RYAN :  
Plaintiff :  
v. : CASE NO. 2002-10909-AD  
DEPARTMENT OF TRANSPORTATION : ENTRY OF DISMISSAL  
Defendant :

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{¶1} THE COURT FINDS THAT:

{¶2} 1) On December 16, 2002, plaintiff, Amanda Ryan, filed a complaint against defendant, Department of Transportation. Plaintiff alleges on November 13, 2002, she sustained property damage to her vehicle while driving in the City of Cincinnati on US 50 (River Road), 150 feet from a Speedway by Fairbanks Avenue. Plaintiff incurred automobile repair costs as a result of hitting a sewer grate in the traveled portion of the roadway and seeks reimbursement for a tire and hub cap in the amount of \$73.00 from defendant;

{¶3} 2) On January 13, 2003, plaintiff submitted the filing fee;

{¶4} 3) On March 7, 2003, defendant filed a motion to dismiss;

{¶5} 4) In support of the motion to dismiss, defendant stated in pertinent part:

{¶6} "Defendant asserts it is not responsible for the maintenance of US 50 where the sewer grate was located because the sewer grate was located within a paving project being administered by the City of Cincinnati . . . Defendant asserts it is not responsible, nor ever has been, for the maintenance of the roadway where the sewer grate was located, since the area in question has never been maintained by defendant and is inside the City of Cincinnati.";

{¶7} 5) Plaintiff has not responded to defendant's motion to dismiss.

{¶8} THE COURT CONCLUDES THAT:

{¶9} 1) R.C. 5501.31 states in pertinent part:

{¶10} "Except in the case of maintaining, repairing, erecting traffic signs on, or pavement marking of state highways within villages, which is mandatory as required by section 5521.01 of the Revised Code, and except as provided in section 5501.49 of the Revised Code, no duty of constructing, reconstructing, widening, resurfacing, maintaining, or repairing state highways within municipal corporations, or the bridges and culverts thereon, shall attach to or rest upon the director . . .";

{¶11} 2) The roadway where plaintiff's incident occurred was not within the maintenance responsibility of defendant.

{¶12} IT IS ORDERED THAT:

{¶13} 1) Defendant's motion to dismiss is GRANTED;

{¶14} 2) Plaintiff's case is DISMISSED;

{¶15} 3) 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

Entry cc:

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For Defendant