

[Cite as *Anderson v. Ohio Dept. of Transp.*, 2003-Ohio-3732.]

IN THE COURT OF CLAIMS OF OHIO

BRIAN ANDERSON	:	
Plaintiff	:	
v.	:	CASE NO. 2003-03213-AD
OHIO DEPT. OF TRANSPORTATION	:	<u>MEMORANDUM DECISION</u>
Defendant	:	

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{¶1} On the evening of January 19, 2003, employees of defendant, Department of Transportation, conducted snowplowing operations on Interstate 480 in Cuyahoga County. Plaintiff, Brian Anderson, stated he was traveling on Interstate 480 at approximately 11:00 p.m. on January 19, 2003, when he decided to exit onto Interstate 422 East at an adjacent roadway entrance. As plaintiff approached the Interstate 422 East entrance, he noticed a pile of heavy snow and ice spanning the roadway entrance. This pile of snow, estimated at one foot high and several feet wide, had apparently been deposited onto the Interstate 422 East entrance by defendant's snow plows in the course of removing snow from Interstate 480 before proceeding onto Interstate 271 North. Plaintiff intentionally drove into this snow pile, lost control of his vehicle, and struck a guardrail, damaging the rear quarter panel of the automobile. Plaintiff was able to maneuver his car from this snow covered roadway area and drive to another roadway exit which was apparently clear of large accumulations of snow and ice debris.

{¶2} Plaintiff contended the damage to his car was proximately caused by the negligence of defendant's snowplow crews in creating a hazardous condition on the roadway entrance to Interstate 422 East. Plaintiff implied this unnatural accumulation of

snow and ice deposited on the roadway entrance was the sole cause of his property damage. Plaintiff has consequently filed this complaint seeking to recover \$1,205.76, the total cost of automotive repair he incurred as a result of the January 19, 2003, property damage incident. Plaintiff submitted the filing fee with the complaint.

{¶3} Defendant acknowledged dispatching many snow plows on January 19, 2003 to conduct snow removal operations on main roadways in Cuyahoga County. Defendant suggested plaintiff elected to travel on a roadway entrance ramp before defendant's crews could properly plow the area. Defendant denied its snow removal crews performed work in a negligent manner. Defendant denied any plowing activity was the proximate cause of plaintiff's property damage. Defendant asserted plaintiff has failed to produce sufficient evidence to show his property damage was the result of any negligent act or omission on the part of defendant's snowplowing crews.

{¶4} Defendant has the duty to maintain its highways 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. Further, defendant must exercise due diligence in the maintenance and repair of highways. *Hennessey v. State of Ohio Highway Department* (1985), 85-02071-AD. This duty encompasses snow removal operations conducted by defendant. *Andrews v. Ohio Department of Transportation* (1998), 97-07277-AD.

{¶5} Defendant's personnel must operate equipment in a safe manner. *State Farm Mutual Ins. Company v. Department of Transportation* (1998), 97-11011-AD. In the instant claim, plaintiff has failed to prove, by a preponderance of the evidence, the property damage claimed was proximately caused by the negligent operation of defendant's snowplow. In fact the evidence establishes the proximate cause of plaintiff's property damage was his own negligent driving. This court, as the trier of fact, determines questions of proximate causation. *Shinaver v. Szymanski* (1984), 14 Ohio St. 3d 51. In the instant claim, plaintiff acknowledged he lost control of his vehicle when he voluntarily chose to drive into a pile of snow spanning a roadway entrance ramp. Despite the fact

defendant may have temporarily exacerbated the condition by its plowing operations, the evidence produced shows plaintiff's choice to maneuver his vehicle through a readily observable accumulation of snow was the proximate cause of any resulting property damage. Plaintiff's own negligence outweighs any negligence attributable to defendant's snow plow crews. Consequently, plaintiff's claim is denied.

{¶6} 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 defendant. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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For Defendant

RDK/laa
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