

[Cite as *Abrams v. Ohio Dept. of Transp.*, 2003-Ohio-5296.]

IN THE COURT OF CLAIMS OF OHIO

STUART ABRAMS :

Plaintiff :

v. :

CASE NO. 2003-06379-AD

DEPARTMENT OF TRANSPORTATION :

ENTRY OF DISMISSAL

Defendant :

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{¶1} THE COURT FINDS THAT:

{¶2} 1) On June 2, 2003, plaintiff, Stuart Abrams, filed a complaint against defendant, Department of Transportation. Plaintiff alleges on May 16, 2003, he sustained property damage to his vehicle while traveling east of State Route 2 near exit 306, when he struck a piece of automobile debris in the traveled portion of the roadway. As a result, plaintiff asserts he incurred automotive repair costs in the amount of \$382.13 and seeks reimbursement of such costs from defendant. Plaintiff submitted the filing fee with the complaint;

{¶3} 2) On July 18, 2003, defendant filed a motion to dismiss;

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

{¶5} “State Route 2 at SR 306 falls under the maintenance jurisdiction of the City of Mentor (See Exhibit A). As such, this section of roadway is not within the maintenance jurisdiction of the defendant.”;

{¶6} 4) Plaintiff has not filed a response to defendant’s motion to dismiss.

{¶7} THE COURT CONCLUDES THAT:

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

{¶9} “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 . . .”;

{¶10} 2) The site of plaintiff’s property damage incident was not within the maintenance responsibility of the defendant. Accordingly, defendant is not the appropriate party to sue.

{¶11} IT IS ORDERED THAT:

{¶12} Defendant’s motion to dismiss is GRANTED. Having considered all the evidence in the claim file and for the reasons set forth above, plaintiff’s case is DISMISSED. The court shall absorb the court costs of this case in excess of the filing fee. The clerk shall serve upon all parties notice of this entry and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Stuart Abrams Plaintiff, Pro se
907 Franklin Street
Sandusky, Ohio 44870

Thomas P. Pannett, P.E.
Assistant Legal Counsel
Department of Transportation
1980 West Broad Street
Columbus, Ohio 43223

For Defendant

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ENTRY

DRB/laa

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