

[Cite as *Triplett v. Cowan Lake State Park*, 2003-Ohio-7132.]

IN THE COURT OF CLAIMS OF OHIO

TIMOTHY TRIPLETT, et al. :

Plaintiffs :

V. :

CASE NO. 2003-08932-AD

COWAN LAKE STATE PARK :

MEMORANDUM DECISION

Defendant :

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FINDINGS OF FACT

{¶1} On July 4, 2003, plaintiffs, Timothy and Samantha Triplett, sustained damage to their van while camping at defendant, Cowan Lake State Park. Specifically, plaintiffs' property damage resulted from a storm when high velocity winds and heavy rain caused a tree branch to fall upon plaintiffs' van. Consequently, plaintiffs filed this complaint seeking to recover \$225.00, an amount representing out-of-pocket expense for vehicle repair, a claim for filing fee reimbursement, and a claim for additional perceived damages.

{¶2} Defendant argued plaintiff's property damage was solely caused by an "Act of God." Therefore, defendant denied any liability in this matter.

CONCLUSIONS OF LAW

{¶3} From the evidence presented, the proximate cause of plaintiffs' damage was a storm, with winds of approximately forty to fifty miles per hour, which uprooted trees and resulted in tree branches falling on their van. According to defendant, the particular tree which caused plaintiffs' damage was healthy and not rotten before the July 4, 2003, incident.

{14} It is well-settled in Ohio law that if an “Act of God” is so unusual and overwhelming as to do damage by its own power, without reference to and independently

of any negligence by defendant, there is no liability. *Piqua v. Morris* (1918), 98 Ohio St. 42, 49. The term, "Act of God," in its legal significance, means any irresistible disaster, the result of natural causes, such as earthquakes, violent storms, lightning and unprecedented floods. *Id.* at 47-48. Accordingly, the storm occurring on July 4, 2003, was strong enough to cause plaintiffs' damage by its own power alone as evidenced by the fact that a swath of trees on defendant's premises were toppled by the storm. Therefore, the court concludes no liability shall attach to defendant for damage done by an "Act of God."

{¶15} 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 plaintiffs. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

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