

[Cite as *Peeler v. Ohio Dept. of Transp.*, 2003-Ohio-941.]

IN THE COURT OF CLAIMS OF OHIO

MONROE PEELER :  
173 Pheasant Run :  
Mayfield Hts., Ohio 44124 : Case No. 2002-10992-AD  
  
Plaintiff : ORDER DISMISSING  
v. : PLAINTIFF'S CASE  
  
OHIO DEPARTMENT OF :  
TRANSPORTATION :  
  
Defendant :  
  
: : : : : : : : : : : : : : : :

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

{¶1} THE COURT FINDS THAT:

{¶2} 1) On December 23, 2002, plaintiff, Monroe Peeler, filed a complaint against defendant, Department of Transportation;

{¶3} 2) On January 30, 2003, defendant filed a motion to dismiss stating this claim was paid by Karvo Paving Company through Cincinnati Insurance;

{¶4} 3) On January 13, 2003, a release of all claims was signed by Monroe Peeler in consideration of \$2,354.90 as a full and final release of the claim against defendant;

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

{¶6} THE COURT CONCLUDES THAT:

{¶7} 1) R.C. 2743.02(D) in pertinent part states:

"Recoveries against the state shall be rendered by the aggregate of insurance proceeds, disability awards, or other collateral recovery received by the claimant.";

{¶8} 2) The money received from Karvo Paving Company through Cincinnati Insurance is a recovery from a collateral source.

{¶9} IT IS ORDERED THAT:

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

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

{¶12} 3) The court shall absorb the court costs for this case in excess of the filing fee.

DANIEL R. BORCHERT  
Deputy Clerk

DRB/laa  
2/11  
Filed 2/19/03  
Jr. Vol. 733, Pgs. 128-129  
Sent to S.C. reporter 3/4/03