

[Cite as *Geer v. Indian Lake State Park*, 2004-Ohio-1838.]

IN THE COURT OF CLAIMS OF OHIO

JAMES F. GEER :
Plaintiff :
v. : CASE NO. 2003-09891-AD
INDIAN LAKE STATE PARK : MEMORANDUM DECISION
Defendant :

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FINDINGS OF FACT

{¶1} 1) On September 19, 2003, plaintiff, James F. Geer, filed a complaint against defendant, Indian Lake State Park. Plaintiff alleges on August 29, 2003, his vehicle was struck by an employee of defendant while defendant's employees were conducting mowing operations. Plaintiff seeks damages in the amount of \$546.24 for repair costs. Plaintiff submitted the filing fee with the complaint.

{¶2} 2) On November 25, 2003, defendant filed an investigation report. Defendant asserts plaintiff's claim is subject to reimbursement under the Motor Vehicle Liability Self-Insurance Program in accordance with R.C. 9.83. Accordingly, this case should be dismissed pursuant to R.C. 2743.13(B).

{¶3} 3) Plaintiff has not submitted a response to defendant's investigation report.

CONCLUSIONS OF LAW

{¶4} 1) R.C. 9.83(A) in pertinent part states:

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{¶5} "The state . . . may procure a policy or policies of insurance insuring its officers and employees against liability for injury, death, or loss to person or property that arises out of the operation of an automobile, truck, motor vehicle with auxiliary equipment, self-propelling equipment or trailer, aircraft, or watercraft by the officers or employees while engaged in the course of their employment or official responsibilities for the state. . . . The state is authorized to expend funds to pay judgments that are rendered in any court against its officers or employees and that result from such operation, and is authorized to expend funds to compromise claims for liability against its officers or employees that result from such operation. No insurer shall deny coverage under such a policy, and the state shall not refuse to pay judgments or compromise claims, on the ground that an automobile, truck, motor vehicle with auxiliary equipment, self-propelling equipment or trailer, aircraft, or watercraft was not being used in the course of an officer's or employee's employment or official responsibilities for the state . . . unless the officer or employee who was operating an automobile, truck, motor vehicle with auxiliary equipment, or self-propelling equipment or trailer is convicted of a violation of section 124.71 of the Revised Code as a result of the same events."

{¶6} 2) R.C. 2743.16(B) in pertinent part states:

{¶7} "If a person suffers injury, death, or loss to person or property from the operation of an automobile, truck, motor vehicle with auxiliary equipment, self-propelling equipment or trailer, aircraft, or watercraft by an officer or employee of the state while engaged in the course of his employment or official responsibilities for the state, the person or the representative of that person or of the estate of that person shall attempt, prior to the commencement of an action based upon that injury, death, or

loss, to have the claim based upon that injury, death, or loss compromised by the state or satisfied by the state's liability insurance.";

{¶8} 3) Plaintiff has failed to present any evidence that he has submitted a claim to the Motor Vehicle Liability Self Insurance Program prior to the commencement of this claim.

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ENTRY OF ADMINISTRATIVE
DETERMINATION

Defendant

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Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, this case is DISMISSED without prejudice. 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

DRB/laa
3/22
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