

[Cite as *Ertle v. Ohio Dept. of Transp.*, 2004-Ohio-3762.]

IN THE COURT OF CLAIMS OF OHIO

PAUL A. ERTLE :  
Plaintiff :  
v. : CASE NO. 2004-04710-AD  
OHIO DEPARTMENT OF : ENTRY OF DISMISSAL  
TRANSPORTATION :  
Defendant :  
:.....

{¶1} On April 16, 2004, plaintiff filed a complaint against defendant, Department of Transportation. Plaintiff alleges on March 23, 2004, while traveling "eastbound I90, just east of the east 9th st on ramp, between Burke Airport to the north and Municipal parking lot to the south," he struck a pothole which caused damage to his vehicle's tire and wheel. Plaintiff seeks reimbursement for his passenger front tire and wheel in the amount of \$739.42 from defendant. Plaintiff submitted the filing fee with the complaint.

{¶2} On May 12, 2004, defendant filed a motion to dismiss. In support of the motion to dismiss, defendant stated in pertinent part:

{¶3} "Defendant has performed an investigation of this site and SR 2 @ East 9th Street falls under the maintenance jurisdiction of the City of Cleveland (See Attached Map and Maintenance Agreement). I-90 does not pick up until past E. 30th Street or Dead Man's Curve. As such, this section of roadway is not within the

maintenance jurisdiction of the defendant."

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

{¶5} The site of plaintiff's incident was within the city limits of Cleveland.

{¶6} R.C. 5501.31, in pertinent part states:

{¶7} "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 . . ."

{¶8} The site of the damage-causing incident was not the maintenance responsibility of defendant. Consequently, plaintiff's case is dismissed.

{¶9} Having considered all the evidence in the claim file and, for the reasons set forth above, defendant's motion to dismiss is GRANTED. Plaintiff's case is DISMISSED. The court shall absorb the court costs of this case. The clerk shall serve upon all parties notice of this entry of dismissal and its date of entry upon the journal.

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DANIEL R. BORCHERT  
Deputy Clerk

Entry cc:

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Plaintiff, Pro se

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Defendant

DRB/laa  
6/16  
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