

when he drove over a roadway pavement blow up on Interstate 275 at milemarker 67.40 in Clermont County or milemarker 35.97 in Hamilton County. However, defendant denied any liability in this matter based on the assertion DOT did not have any notice of the pavement blow up prior to the July 13, 2004, incident forming the basis of this claim. Defendant pointed out the initial criterion for a liability determination in a highway blow up claim is establishing DOT's notice of the defective condition (blow up), see *Knickel v. Ohio Dept. of Transportation* (1976), 49 Ohio App. 2d 335, (general not specific particular notice that a deteriorated roadway condition is likely to occur is the standard for a liability judgment). Defendant also pointed out generalized notice of a highway blow up and resulting liability are shown under circumstances, "where temperatures are extremely hot for extended lengths of time." *Allen v. Department of Transportation* (1996), 95-10297-AD. The likelihood of a blow up occurrence may be substantiated by providing evidence of extreme weather conditions, *Allen*, id. However, weather evidence is not essential to a liability determination in an action for property damage caused by a highway blow up. The temperature at the time of the highway blow up incident in *Allen* was approximately 89°F to 90°F. The maximum relative humidity from July 1 to July 13, 2004, ranged from 90% to 100%.

{¶ 3} Defendant reiterated it did not have actual notice of the highway blow up prior to July 13, 2004. Defendant did not receive any calls or complaints about the blow up prior to Justin Ackerman's property damage event. Defendant contended notice of the blow up cannot be imputed due to the fact temperatures for the month of July 2004, in the Cincinnati, Ohio area were not extremely hot enough for a sufficient length of time to invoke a standard for notice expressed in *Allen*, supra. Defendant asserted plaintiffs

Court costs are assessed against defendant. 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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RDK/laa
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