

[Cite as *Sexton v. Ohio Dept. of Transp., Dist. 8, 2005-Ohio-2047.*]

IN THE COURT OF CLAIMS OF OHIO

PAMELA J. SEXTON :
 :
 Plaintiff :
 :
 v. : CASE NO. 2005-01544-AD
 :
 OHIO DEPARTMENT OF : ENTRY OF DISMISSAL
 TRANSPORTATION, DISTRICT 8 :
 :
 Defendant :
 :
 :::::::::::::::

{¶1} On January 18, 2005, plaintiff filed a complaint against defendant, Department of Transportation. Plaintiff alleges on January 3, 2005, she sustained damage to her vehicle while traveling westbound on State Route 562 between the Reading Road and Paddock Road exits in Hamilton County, Ohio, as the result of striking a pothole in the roadway. She sustained a flat tire, bent rim and loss of a hubcap. Plaintiff seeks damages in the amount of \$138.95, which represents \$63.95 for a tire, \$45.00 for a rim and \$30.00 for a hubcap. Plaintiff submitted the filing fee with the complaint.

{¶2} On February 17, 2005, 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 this section of SR 562 between Reading Road and the Paddock Road Exits and it falls under the maintenance jurisdiction of the City of Cincinnati (See Attached Map). William Davis of the Ohio Department of Transportation sent an e-mail to plaintiff on January 6, 2005, stating that the City of Cincinnati or City of Norton was

responsible for this area. (See Exhibit A). Mr. Davis mentioned

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{¶4} both cities because he wasn't sure where plaintiff hit the pothole. As such, this section of roadway is not within the maintenance jurisdiction of the defendant."

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

{¶6} The site of plaintiff's incident was within the City of Cincinnati.

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

{¶8} "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 . . ."

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

{¶10} 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.

DANIEL R. BORCHERT
Deputy Clerk

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Entry cc:

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DRB/laa
3/23
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