

[Cite as *Geers v. Ohio Dept. of Transp.*, 2005-Ohio-2899.]

IN THE COURT OF CLAIMS OF OHIO

HENRY J. GEERS	:	
Plaintiff	:	
v.	:	CASE NO. 2005-03148-AD
DEPARTMENT OF TRANSPORTATION, DISTRICT 8	:	<u>ENTRY OF DISMISSAL</u>
Defendant	:	

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{¶ 1} On February 24, 2005, plaintiff filed a complaint against defendant, Department of Transportation. Plaintiff alleges on February 3, 2005, he sustained damage to his vehicle when he struck a road reflector lying in the traveled portion of the roadway. The incident occurred while driving north of Colerain Avenue approximately 200 feet from the intersection with east Miami River Road in Hamilton County, Ohio. Plaintiff seeks reimbursement for the damages caused to his vehicle's tire and related expenses which amount of \$112.79. Plaintiff submitted the filing fee with the complaint.

{¶ 2} On March 25, 2005, defendant filed a motion to dismiss. In support of the motion to dismiss, defendant stated in pertinent part:

{¶ 3} "Defendant's investigation reveals that Colerain Avenue runs parallel to US 27. Colerain Avenue is known as County Road 463 (CR 463) and is not maintained by ODOT. County Road 463 falls under the maintenance jurisdiction of the Hamilton County Engineer (See Exhibit A). 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 not within the maintenance jurisdiction of the defendant.

{¶ 6} R.C. 5501.11 in pertinent part states:

{¶ 7} "The functions of the department of transportation with respect to highways shall be:

{¶ 8} "(A) To establish state highways on existing roads, streets and new locations and to construct, reconstruct, widen, resurface, maintain, and repair the state system of highways and the bridges and culverts thereon;"

{¶ 9} The site of plaintiff's damage-causing incident was on a county road, not a state highway. Accordingly, defendant had no maintenance responsibility with respect to this roadway.

{¶ 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

Entry cc:

Henry J. Geers
3160 Buell Road, Box 63
Shandon, Ohio 45063

Plaintiff, Pro se

Thomas P. Pannett, P.E.
Assistant Legal Counsel

For Defendant

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ENTRY

Department of Transportation
1980 West Broad Street
Columbus, Ohio 43223

DRB/laa
4/11
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