

[Cite as *Derenberger v. Ohio Dept. of Transp.*, 2005-Ohio-3649.]

IN THE COURT OF CLAIMS OF OHIO

AMY D. DERENBERGER	:	
Plaintiff	:	
v.	:	CASE NO. 2005-05540-AD
OHIO DEPARTMENT OF TRANSPORTATION	:	<u>ENTRY OF DISMISSAL</u>
Defendant	:	

: : : : : : : : : : : : : : : :

{¶ 1} On April 18, 2005, plaintiff filed a complaint against defendant, Department of Transportation. Plaintiff alleges on April 2, 2005, at approximately 1:10 p.m., while exiting onto Winchester Pike from State Route 33, she struck a large pothole which caused tire and wheel damage to the vehicle. Plaintiff seeks damages for automotive repair, car rental, and reimbursement of the filing fee which she submitted with her complaint. Plaintiff's damages total \$744.17.

{¶ 2} On May 27, 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 the complaint reads from I-70, I took the exit onto State Route 33 (toward Lancaster). I then exited onto Winchester Pike. On that ramp, I hit a large pothole. This description sounds like plaintiff is on Winchester Pike and that area falls under the maintenance jurisdiction of the City of Columbus. (See Attached Map.) The Ohio Department of Transportation maintains the ramps from I-70 to US 33 and the City of Columbus takes over at the

bottom of the ramp to Winchester Pike. As such, this section of roadway is not within the maintenance jurisdiction of defendant."

{¶ 4} Plaintiff has not responded to defendant's motion to dismiss. The site of plaintiff's incident was within the maintenance jurisdiction of the City of Columbus.

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

{¶ 6} "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 . . ."

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

{¶ 8} 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:

Amy D. Derenberger
470 Bren Drive

Plaintiff, Pro se

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ENTRY

Lancaster, Ohio 43130

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6/16
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