

[Cite as *Press v. Ohio Dept. of Natural Resources*, 2006-Ohio-1024.]

IN THE COURT OF CLAIMS OF OHIO

ARTHUR PRESS :  
Plaintiff :  
v. : CASE NO. 2005-10004-AD  
DEPARTMENT OF NATURAL : MEMORANDUM DECISION  
RESOURCES :  
Defendant :  
: :

FINDINGS OF FACT

{¶ 1} On July 30, 2005, an automobile owned by plaintiff, Arthur Press, was damaged while being parked on the grounds of Headlands Beach State Park, a park under the control of defendant, Department of Natural Resources. The end of the parking space where plaintiff's car was damaged was marked by a concrete block anchored by metal rebar spikes. When plaintiff's vehicle was pulled to the end of the parking space the bumper of the car caught on a piece of metal rebar protruding from the concrete parking block. The protruding rebar ripped and cracked the bumper of plaintiff's car. Plaintiff contended his vehicle was damaged as a proximate cause of negligence on the part of defendant in maintaining a defective condition in the parking area of the Headlands Beach State Park. Consequently, plaintiff filed this complaint seeking to recover \$954.47, his cost of automotive repair resulting from the July 30, 2005, incident. The filing fee was paid.

{¶ 2} Defendant, Department of Natural Resources, has denied liability based on the fact plaintiff was a recreational user of defendant's premises at the time of the property damage occurrence.

Defendant explained the parking lot at Headlands Beach State Park is open to the public free of charge and plaintiff did not pay a fee to use the facilities.

{¶ 3} Since this incident occurred at Headlands Beach State Park, defendant qualifies as the owner of the "premises" under R.C. 1533.18, et seq.

{¶ 4} "Premises" and "recreational user" are defined in R.C. 1533.18, as follows:

{¶ 5} "(A) 'Premises' means all privately-owned lands, ways, and waters and any buildings and structures thereon, and all state-owned lands, ways and waters leased to a private person, firm, or organization, including any buildings and structures thereon.

{¶ 6} "(B) 'Recreational user' means a person to whom permission has been granted, without the payment of a fee or consideration to the owner, lessee, or occupant of premises, other than a fee or consideration paid to the state or any agency of the state, or a lease payment or fee paid to the owner of privately owned lands, to enter upon the premises to hunt, fish, trap, camp, hike, swim, operate a snowmobile or all-purpose vehicle or engage in other recreational pursuits."

{¶ 7} R.C. 1533.181 states:

{¶ 8} "(A) *No owner, lessee, or occupant of premises:*

{¶ 9} "(1) Owes any duty to a recreational user to keep the premises safe for entry or use;

{¶ 10} "(2) Extends any assurance to a recreational user, through the act of giving permission, that the premises are safe for entry or use." (Emphasis added.)

{¶ 11} Pursuant to the enactment of R.C. 2743.02(A), the definition of premises in R.C. 1533.18(A) effectively encompassed



journal.

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DANIEL R. BORCHERT  
Deputy Clerk

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RDK/laa  
1/20  
Filed 2/14/06  
Sent to S.C. reporter 3/3/06