[Cite as *Beck v. Ohio Dept. of Transp.*, 2006-Ohio-7284.]

Court of Claims of Ohio
The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

DAVID L. BECK

Plaintiff

v.

DEPARTMENT OF TRANSPORTATION

Defendant

Case No. 2006-03842-AD
Daniel R. Borchert
Deputy Clerk

MEMORANDUM DECISION

{¶ 1} 1) On May 9, 2006, at about 4:00 a.m., plaintiff, David L. Beck, was traveling north on Interstate 75 near milepost 90.10 in Shelby County, when his automobile ran over a tire laying on the traveled portion of the roadway. The tire debris caused substantial damage to plaintiff=s vehicle.

{¶ 2} 2) Consequently, plaintiff filed this complaint seeking to recover $1,800.00, his cost of automotive repair which he contends was incurred as a result of negligence on the part of defendant, Department of Transportation, in maintaining the roadway. Plaintiff submitted the filing fee.

{¶ 3} 3) Defendant has denied any liability for plaintiff=s damage. Defendant denied having any knowledge of the tire debris condition prior to plaintiff=s incident. Plaintiff has failed to produce any evidence establishing the length of time the tire debris condition was on the roadway prior to his property damage occurrence. Defendant conducts frequent litter inspections and litter pick-up operations in the area of plaintiff=s May 9, 2006, property damage event.

CONCLUSIONS OF LAW

{¶ 4} Defendant has the duty to maintain its highway in a reasonably safe condition for the motoring public. *Knickel v. Ohio Department of Transportation* (1976), 49 Ohio App. 2d 335. However, defendant is not an insurer of the safety of its highways. See *Kniskern v. Township of Somerford* (1996), 112 Ohio App. 3d 189; *Rhodus v. Ohio Dept. of Transp.* (1990), 67 Ohio App. 3d 723.

{¶ 5} In order to recover in any suit involving injury proximately caused by roadway conditions including debris, plaintiff must prove either: 1) defendant had actual or constructive notice of the debris and failed to respond in a reasonable time or responded in a negligent manner, or 2) that defendant, in a general sense, maintains its highways negligently. *Denis v. Department of Transportation* (1976), 75-0287-AD.

{¶ 6} Defendant is only liable for roadway conditions of which it has notice, but fails to reasonably correct. *Bussard v. Dept. of Transp.* (1986), 31 Ohio Misc. 2d 1.

{¶ 7} Plaintiff has not produced any evidence to indicate the length of time the debris condition was present on the roadway prior to the incident forming the basis of this claim. No evidence has been submitted to show defendant had actual notice of the debris. Additionally, the trier of fact is precluded from making an inference of defendant=s constructive notice, unless evidence is presented in respect to the time the debris appeared on the roadway. *Spires v. Highway Department* (1988), 61 Ohio Misc. 2d 262. There is no indication defendant had constructive notice of the debris.

{¶ 8} Finally, plaintiff, has not produced any evidence to infer defendant, in a general sense, maintains its highways negligently or that defendant=s acts caused the defective condition. *Herlihy v. Ohio Department of Transportation* (1999), 99-07011-AD. Therefore, defendant is not liable for any damage plaintiff may have suffered from the roadway debris.

[Cite as *Beck v. Ohio Dept. of Transp.*, 2006-Ohio-7284.]

Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

DAVID L. BECK

Plaintiff

v.

DEPARTMENT OF TRANSPORTATION

Defendant

Case No. 2006-03842-AD
Daniel R. Borchert
Deputy Clerk

ENTRY OF ADMINISTRATIVE DETERMINATION

Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, judgment is rendered in favor of defendant. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

_____
DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

David L. Beck
12080-8 North Pointe Lane
Holland, Michigan 49424

Plaintiff, Pro se

Gordon Proctor, Director
Department of Transportation
1980 West Broad Street
Columbus, Ohio 43223

For Defendant

RDK/laa
9/8
Filed 9/19/06
Sent to S.C. reporter 6/5/07