

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

EVERETT RAY, et al.

Plaintiffs

v.

DEPARTMENT OF
TRANSPORTATION

Defendant

Case No. 2006-04890-AD

Deputy Clerk Daniel R. Borchert

ENTRY OF DISMISSAL

{¶ 1} On July 15, 2006, plaintiffs, Everett and Bonnie Ray, filed a complaint against defendant, Department of Transportation (“DOT”), alleging they sustained property damage to their vehicle while traveling northbound on US 42, and turning right onto SR 73. At the turn, the car hit a pothole. As a result, plaintiffs incurred automotive repair costs in the amount of \$337.84 and seek reimbursement of these costs by defendant. Plaintiffs submitted the filing fee with the complaint.

{¶ 2} On August 31, 2006, defendant filed a motion to dismiss. Defendant asserted that plaintiffs’ claim should be dismissed because DOT is not the proper defendant in this case. In support of the motion to dismiss, defendant in pertinent part stated: “Defendant performed an investigation of this site and this section of US 42 falls under the maintenance jurisdiction of the Village of Waynesville (See Attached Map).”

{¶ 3} Ohio Revised Code Section 5501.31 in pertinent part states:

{¶ 4} “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 . . .”

{¶ 5} The site of the damage-causing incident was not the maintenance responsibility of the defendant. The Village of Waynesville is responsible for the maintenance of roadway upon which plaintiffs’ incident occurred. Consequently, plaintiffs’ case is dismissed.

{¶ 6} Having considered all the evidence in the claim file and, for the reasons set forth above, defendant’s motion to dismiss is GRANTED. Plaintiffs’ 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

cc:

Bonnie Ray Everett Ray 911 Cardinal Drive Lebanon, Ohio 45036		Plaintiffs, Pro se
Thomas P. Pannett, P.E. Assistant Legal Counsel Department of Transportation 1980 W. Broad St. Columbus, Ohio 43223		For Defendant

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