

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

KATHLEEN USAJ

Case No. 2007-01100-AD

Plaintiff

Deputy Clerk Daniel R. Borchert

v.

ENTRY OF DISMISSAL

OHIO DEPARTMENT OF
TRANSPORTATION

Defendant

{¶1} On January 4, 2007, plaintiff, Kathleen Usaj, filed a complaint against defendant, Department of Transportation. Plaintiff alleges on December 1, 2006, at approximately 5:21 a.m., her son was driving her vehicle southbound on Richmond Road, south of Miles Road, when he struck a large pothole causing damage to the vehicle. Plaintiff located the pothole in the “south bound lane west side of the street in front of 5165 Richmond.” Plaintiff seeks damages in the amount of \$633.61, for a new wheel, tire and related automotive repair expenses which she asserts were caused by defendant’s negligence in maintaining the roadway. Plaintiff submitted the filing fee with the complaint.

{¶2} On March 1, 2007, defendant filed a motion to dismiss. In support of the motion to dismiss, defendant stated in pertinent part:

{¶3} “Defendant asserts it is not responsible for the maintenance of SR 175 in Bedford Heights, Ohio. (See Exhibit A) The maintenance responsibilities of ODOT’s Warrensville Yard are listed and they maintain SR 175 in Highland Hills from Harvard to IR 271. This area is north of where plaintiff’s son hit the pothole. (see map) As such, this section of roadway is not within the maintenance jurisdiction of the defendant.

{¶4} “In sum, the City of Bedford Heights is responsible for the maintenance of the roadway upon which plaintiff’s incident occurred. As such, the City of Bedford Heights is the proper party to plaintiff’s claim, not the defendant.”

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{¶5} Plaintiff has not responded to defendant's motion to dismiss. The site of plaintiff's son's incident was in the City of Bedford Heights.

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

{¶7} "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, 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 . . ."

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

{¶9} 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:

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DRB/laa
4/5
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