

[Cite as *Laux v. Cleveland State Univ.*, 2007-Ohio-2409.]

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

NATALIYA V. LAUX

Plaintiff

v.

CLEVELAND STATE UNIVERSITY

Defendant

Case No. 2007-01410-AD

Clerk Miles C. Durfey

MEMORANDUM DECISION

FINDINGS OF FACT

{¶1} 1) On November 13, 2006, plaintiff, Nataliya V. Laux, sustained property damage to her Honda Odyssey while parking the vehicle on a lot owned and operated by defendant, Cleveland State University. Specifically, the bumper cover of plaintiff's car was damaged when it caught on a piece of rebar protruding from a parking block located at the end of a parking space on defendant's lot.

{¶2} 2) Plaintiff filed this complaint seeking to recover \$1,000.00, the total cost of automotive repair resulting from the November 13, 2006, incident. Plaintiff pointed out that she maintains insurance coverage for her vehicle with a \$500.00 deductible. The filing fee was paid and plaintiff seeks reimbursement of that amount, plus \$25.00 for postage costs. Postage costs are not recoverable in a claim of this type. Therefore, the claim for postage costs is denied and shall not be further addressed.

{¶3} 3) On March 12, 2007, defendant filed an investigation report admitting liability for plaintiff's property damage but asserting her recovery should be limited by any available collateral source recovery.

{¶4} 4) On March 27, 2007, plaintiff filed a response expressing her agreement with the admissions contained in defendant's investigation report.

CONCLUSIONS OF LAW

{¶5} 1) Defendant was charged with a duty to exercise reasonable care for the protection of plaintiff's property. In regard to the facts of this claim, negligence on the part of defendant has been shown. *Jackson v. University of Akron* (2001), 2001-04026-AD; *Bihary v. Cleveland State Univ.*, 2006-05063-AD, 2007-Ohio-655.

{¶6} 2) R.C. 3345.40(B)(2) states in pertinent part:

{¶7} "If a plaintiff receives or is entitled to receive benefits for injuries or loss allegedly incurred from a policy or policies of insurance or any other source, the benefits shall be disclosed to the court, and the amount of the benefits shall be deducted from any award against the state university or college recovered by plaintiff."

{¶8} Thus, pursuant to the statutory requirement of R.C. 3345.40(B)(2), compensation for the automotive repair expenses shall be limited to \$500.00, plaintiff's stated insurance deductible.

{¶9} 3) Plaintiff has suffered damages in the amount of \$500.00, plus the \$25.00 filing fee, which may be reimbursed as compensable damages pursuant to the

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holding in *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19, 587 N.E. 2d 990.

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ENTRY OF ADMINISTRATIVE
DETERMINATION

Defendant

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 plaintiff in the amount of \$525.00, which includes the filing fee. Court costs are assessed against defendant. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

MILES C. DURFEY
Clerk

Entry cc:

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RDK/laa
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