

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

MARGARET E. DUPREY

Case No. 2007-01258-AD

Plaintiff

Deputy Clerk Daniel R. Borchert

v.

ENTRY OF DISMISSAL

OHIO DEPARTMENT OF
TRANSPORTATION

Defendant

{¶ 1} On October 27, 2006, plaintiff, Margaret E. Duprey, was traveling on State Route 2 (Airport Highway) in a construction area within the City of Toledo, when her automobile struck a pothole causing tire damage to the vehicle. Plaintiff filed this complaint against defendant, Department of Transportation (DOT), asserting her property damage was proximately caused by negligence on the part of DOT in maintaining State Route 2. Plaintiff seeks damages in the amount of \$360.12, for replacement parts and automotive repair expenses resulting from the October 27, 2006, incident. The filing fee was paid.

{¶ 2} Defendant contended DOT does not bear the maintenance responsibility for the portion of State Route 2 where plaintiff's property-damage event occurred. Defendant explained the City of Toledo is responsible for maintaining the underlying roadway referenced in this complaint. Essentially, defendant insisted DOT is not the property party defendant in this action and therefore, plaintiff's claim should be dismissed.

{¶ 3} Plaintiff did not respond. The site of plaintiff's incident was in the City of Toledo.

[Cite as *Duprey v. Ohio Dept. of Transp.*, 2007-Ohio-3750.]

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

{¶ 5} “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 . . .”

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

{¶ 7} Having considered all the evidence in the claim file and, for the reasons set forth above, plaintiff’s claim 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:

Margaret E. Duprey
322 Sackett Street
Maumee, Ohio 43537

James Beasley, Director
Department of Transportation
1980 West Broad Street
Columbus, Ohio 43223

RDK/laa
5/16
Filed 6/4/07
Sent to S.C. reporter 7/24/07