

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

JULIET STARR

Case No. 2006-07074-AD

Plaintiff

Deputy Clerk Daniel R. Borchert

v.

ENTRY OF DISMISSAL

DEPARTMENT OF
TRANSPORTATION

Defendant

{¶1} On November 1, 2006, plaintiff, Juliet Starr, filed a complaint against defendant, Department of Transportation, District 4. Plaintiff alleges on September 20, 2006, at approximately 9:30 p.m., she was traveling westbound on US 30/US 250 when she incurred damage to her vehicle while crossing the railroad tracks in Wayne County. Plaintiff asserts damage to her vehicle was the result of negligence on the part of defendant and she seeks damages in the amount of \$189.13 for automotive repair. Plaintiff submitted the filing fee with the complaint.

{¶2} On November 28, 2006, defendant filed a motion to dismiss. In support of the motion to dismiss, defendant stated the area where the incident occurred was not in the maintenance responsibility of defendant. First, because pursuant to R.C. 4955.20, the roadway within the railroad crossing area is the responsibility of the railroad company and second, the area was within the corporate limits of the City of Wooster.

{¶3} Plaintiff did not respond to defendant's motion to dismiss.

{¶4} R.C. 4955.20 in pertinent part states:

{¶5} "Companies operating a railroad in this state shall build and keep in repair good and sufficient crossings over or approaches to such railroad, its tracks, sidetracks, and switches, at all points where any public highway, street, lane, avenue, alley, road, or pike is intersected by such railroad, its tracks, sidetracks, or switches."

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

{¶17} “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 . . .”

{¶18} Defendant is not responsible for the maintenance of the roadway at the site of plaintiff’s damage-causing incident. Consequently, plaintiff’s case is dismissed.

{¶19} 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 in excess of the filing fee. 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:

Juliet Starr
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